

8-29-2012

## State v. Neal Clerk's Record Dckt. 40076

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

SYDNEY LORELEI NEAL,

Defendant-Appellant.

Supreme Court Case No. 40076-2012

CLERK'S RECORD ON APPEAL

Appeal from the District Court of the Fourth Judicial District, in and for the County of Ada.

HONORABLE MIKE WETHERELL

STATE APPELLATE PUBLIC DEFENDER

ATTORNEY FOR APPELLANT

BOISE, IDAHO

LAWRENCE G. WASDEN

ATTORNEY FOR RESPONDENT

BOISE, IDAHO

State of Idaho vs. Sydney Lorelei G Neal

Date	Code	User		Judge
8/11/2011	NCRF	PRSMITTJ	New Case Filed - Felony	Magistrate Court Clerk
	PROS	PRSMITTJ	Prosecutor assigned Ada County Prosecutor	Magistrate Court Clerk
9/1/2011	CHGA	TCLEEDOK	Judge Change: Administrative	John Hawley Jr.
	HRSC	TCLEEDOK	Hearing Scheduled (Arraignment 09/23/2011 09:30 AM)	John Hawley Jr.
	SMIS	TCLEEDOK	Summons Issued Neal, Sydney Lorelei G	John Hawley Jr.
9/19/2011	SMRS	TCLEEDOK	Summons Returned - Served Neal, Sydney Lorelei G	John Hawley Jr.
9/23/2011	ARRN	TCFINNDE	Hearing result for Arraignment scheduled on 09/23/2011 09:30 AM: Arraignment / First Appearance	John Hawley Jr.
	HRSC	TCFINNDE	Hearing Scheduled (Preliminary 10/14/2011 08:30 AM)	John Hawley Jr.
	ORPD	TCFINNDE	Order Appointing Public Defender	John Hawley Jr.
	ORPD	TCFINNDE	Defendant: Neal, Sydney Lorelei G Order Appointing Public Defender Public defender Ada County Public Defender	John Hawley Jr.
9/28/2011	RQDD	TCOLSOMC	Defendant's Request for Discovery	John Hawley Jr.
	MFBR	TCOLSOMC	Motion For Bond Reduction	John Hawley Jr.
	NOHG	TCOLSOMC	Notice Of Hearing	John Hawley Jr.
10/14/2011	CONT	CCMANLHR	Continued (Preliminary 11/17/2011 08:30 AM)	John Hawley Jr.
10/18/2011	ORMR	CCMANLHR	Order For Delivery of Medical Records	John Hawley Jr.
11/17/2011	CHGA	TCFINNDE	Judge Change: Administrative	Theresa Gardunia
	BOUN	TCFINNDE	Hearing result for Preliminary scheduled on 11/17/2011 08:30 AM: Bound Over (after Prelim)	Theresa Gardunia
	HRSC	TCFINNDE	Hearing Scheduled (Arraignment 12/01/2011 09:00 AM)	Theresa Gardunia
	MISC	TCFINNDE	Commitment	Theresa Gardunia
11/18/2011	INFO	TCLANGAJ	Information	Mike Wetherell
11/21/2011	PROS	PRFLEMSM	Prosecutor assigned Jeffrey S White	Mike Wetherell
11/22/2011	MOTN	TCTONGES	Motion for Preliminary Hearing Transcript	Mike Wetherell
11/28/2011	ORDR	DCOATMAD	Order for Preliminary Hearing Transcript	Mike Wetherell
12/1/2011	DCHH	DCOATMAD	Hearing result for Arraignment scheduled on 12/01/2011 09:00 AM: District Court Hearing Held Court Reporter: Nicole Omsberg Number of Transcript Pages for this hearing estimated: less than 50 pgs	Mike Wetherell
	HRSC	DCOATMAD	Hearing Scheduled (Entry of Plea 12/15/2011 09:00 AM)	Mike Wetherell
	NOTC	TCTONGES	Notice of Preparation of Transcript	Mike Wetherell

State of Idaho vs. Sydney Lorelei G Neal

Date	Code	User	Judge
12/15/2011	DCHH	DCOATMAD	Hearing result for Entry of Plea scheduled on 12/15/2011 09:00 AM: District Court Hearing Held Court Reporter: Nicole Omsberg Number of Transcript Pages for this hearing estimated: less than 25 pgs
	HRSC	DCOATMAD	Hearing Scheduled (Motion to Dismiss 03/14/2012 01:30 PM)
	HRSC	DCOATMAD	Hearing Scheduled (Jury Trial 04/02/2012 09:00 AM)
	PLEA	DCOATMAD	A Plea is entered for charge: - NG (I37-2732(C)(1) Controlled Substance-Possession of)
	HRSC	DCOATMAD	Hearing Scheduled (Pretrial Conference 03/29/2012 01:30 PM)
		DCOATMAD	Notice of Trial Setting
12/16/2011	MDIS	TCTONGES	Motion To Dismiss Information
1/3/2012	TRAN	TCOLSOMC	Transcript Filed
1/18/2012	BREF	TCLANGAJ	Defendant's Brief in Support of Motion to Dismiss
2/14/2012	RSDS	TCLANGAJ	State/City Response to Discovery
	RQDS	TCLANGAJ	State/City Request for Discovery
3/5/2012	RSPN	TCLANGAJ	State's Response to Defendant's Motion to Dismiss
3/13/2012	STIP	DCDANSEL	Stipulation to File Documents Under Seal
3/14/2012	DCHH	DCOATMAD	Hearing result for Motion to Dismiss scheduled on 03/14/2012 01:30 PM: District Court Hearing Held Court Reporter: Nicole Julson Number of Transcript Pages for this hearing estimated: less than 25 pgs
	CONT	DCOATMAD	Continued (Review Hearing 04/19/2012 09:00 AM)
	HRVC	DCOATMAD	Hearing result for Pretrial Conference scheduled on 03/29/2012 01:30 PM: Hearing Vacated
4/10/2012	ORDR	DCOATMAD	Order Denying Defendant's Motion to Dismiss
4/19/2012	DCHH	DCOATMAD	Hearing result for Review Hearing scheduled on 04/19/2012 09:00 AM: District Court Hearing Held Court Reporter: Nicole Julson Number of Transcript Pages for this hearing estimated: less than 25 pgs
	HRSC	DCOATMAD	Hearing Scheduled (Sentencing 06/14/2012 03:30 PM)
	PLEA	DCOATMAD	A Plea is entered for charge: - GT (I37-2732(C)(1) Controlled Substance-Possession of)
	PSSA1	DCOATMAD	Order for Presentence Investigation Report and Substance Abuse Assessment

State of Idaho vs. Sydney Lorelei G Neal

Date	Code	User		Judge
6/14/2012	STIP	DCOATMAD	Stipulation to Enter Conditional Guilty Plea	Mike Wetherell
	DCHH	DCOATMAD	Hearing result for Sentencing scheduled on 06/14/2012 03:30 PM: District Court Hearing Held Court Reporter: Fran Morris Number of Transcript Pages for this hearing estimated: less than 25 pgs	Mike Wetherell
	WHJD	DCOATMAD	Withheld Judgment Entered (I37-2732(C)(1) Controlled Substance-Possession of)	Mike Wetherell
	JAIL	DCOATMAD	Sentenced to Jail or Detention (I37-2732(C)(1) Controlled Substance-Possession of) Confinement terms:	Mike Wetherell
	PROB	DCOATMAD	Probation Ordered (I37-2732(C)(1) Controlled Substance-Possession of) Probation term: 5 years 0 months 0 days. (Felony Probation & Parole)	Mike Wetherell
	STAT	DCOATMAD	STATUS CHANGED: closed pending clerk action	Mike Wetherell
	SNPF	DCOATMAD	Sentenced To Pay Fine 615.50 charge: I37-2732(C)(1) Controlled Substance-Possession of	Mike Wetherell
6/18/2012	ORDR	DCDANSEL	Order Withholding Judgment and Order of Probation	Mike Wetherell
6/19/2012	APSC	TCBROWJM	Appealed To The Supreme Court	Mike Wetherell
6/20/2012	ORDR	DCOATMAD	Order Appointing State Appellate Public Defender on Direct Appeal	Mike Wetherell
7/30/2012	NOTC	CCTHIEBJ	(2) Notice of Transcript Lodged - Supreme Court Docket No. 40076	Mike Wetherell

DR # 11-001895

AUG 11 2011

CHRISTOPHER D. RICH, Clerk  
By STORMY McCORMACK  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

Whitney A. Faulkner  
Deputy Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise, Idaho 83702  
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO, )

Plaintiff, )

vs. )

SYDNEY LORELEI NEAL, )

Defendant. )

Case No. CR-FE-2011-00 12350

**COMPLAINT**

Neal's DOB: [REDACTED]

Neal's SSN: [REDACTED]

PERSONALLY APPEARED Before me this 11th day of August 2011, Whitney A. Faulkner, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, who, being first duly sworn, complains and says: that SYDNEY LORELEI NEAL, on or about the 4th day of April, 2011, in the County of Ada, State of Idaho, did commit the crime of POSSESSION OF A CONTROLLED SUBSTANCE, FELONY, I.C. §37-2732(c) as follows:

That the Defendant, SYDNEY LORELEI NEAL, on or about the 4th day of April, 2011, in the County of Ada, State of Idaho, did constructively possess a controlled substance, to-wit: Methadone, a Schedule II controlled substance.

All of which is contrary to the form, force and effect of the statute in such case and against the peace and dignity of the State of Idaho.

Said Complainant therefore prays that a Warrant issue for the arrest of the Defendant and that SYDNEY LORELEI NEAL, may be dealt with according to law.

**GREG H. BOWER**  
Ada County Prosecutor



Whitney A. Faulkner  
Deputy Prosecuting Attorney

SUBSCRIBED AND Sworn to before me this 11 day of <sup>August</sup>~~June~~ 2011.



Magistrate

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

STATE OF IDAHO, ADA COUNTY, MAGISTRATE DIVISION

PROBABLE CAUSE FORM

STATE OF IDAHO

vs.

Sydney Neal

PROSECUTOR W. Faulkner

COMPLAINING WITNESS \_\_\_\_\_

CASE NO. FE-11-

CLERK K Gardner

DATE 8 / 11 / 11 TIME 1052

TOXIMETER \_\_\_\_\_

CASE ID. DHS081111 BEG. 105219

END 105510

JUDGE

- |                                     |   |
|-------------------------------------|---|
| <input type="checkbox"/> BEREZ      | <input type="checkbox"/> MacGREGOR-IRBY                     |
| <input type="checkbox"/> BIETER     | <input type="checkbox"/> MANWEILER                          |
| <input type="checkbox"/> CAWTHON    | <input type="checkbox"/> McDANIEL                           |
| <input type="checkbox"/> COMSTOCK   | <input type="checkbox"/> MINDER                             |
| <input type="checkbox"/> DAY        | <input checked="" type="checkbox"/> OTHS <u>for Steckel</u> |
| <input type="checkbox"/> GARDUNIA   | <input type="checkbox"/> REARDON                            |
| <input type="checkbox"/> HARRIGFELD | <input type="checkbox"/> STECKEL                            |
| <input type="checkbox"/> HAWLEY     | <input type="checkbox"/> SWAIN                              |
| <input type="checkbox"/> HICKS      | <input type="checkbox"/> WATKINS                            |
| <input type="checkbox"/> _____      |   |
| <input type="checkbox"/> _____      |   |

STATUS

- ☒ WITNESS SWORN
- ☒ PC FOUND \_\_\_\_\_
- ☒ COMPLAINT SIGNED
- ☐ AMENDED COMPLAINT SIGNED
- ☐ NO PC FOUND \_\_\_\_\_
- ☐ EXONERATE BOND
- ☒ SUMMONS TO BE ISSUED
- ☐ WARRANT ISSUED
- ☐ BOND SET \$ \_\_\_\_\_
- ☐ NO CONTACT

D.R. # \_\_\_\_\_

- ☐ DISMISS CASE
- ☐ IN CUSTODY

COMMENTS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



SEP 19 2011

CHRISTOPHER D. RICH, Clerk  
By DONNA LEE  
DEPUTY

9/14/2011

STATE OF IDAHO  
-VS-  
SYDNEY LORELEI NEAL

ADA COUNTY - 4TH JUDICIAL DISTRICT

CRFE20110012350

SHERIFF'S RETURN OF SUMMONS AND COMPLAINT

SHERIFF'S NUMBER: 1112770  
RECEIVED BY SHERIFF ON 9/2/2011

I CERTIFY THAT I PERSONALLY SERVED THE ATTACHED: **SUMMONS AND COMPLAINT**

TO: SYDNEY LORELEI NEAL  
655 S CANVASBACK WAY  
MERIDIAN, ID 83642

ON: 9/13/2011 AT 14:40 HOURS

I RETURN THE **SUMMONS AND COMPLAINT** SERVED, AND ASSESS MY FEES AT:  
\$0.00.

GARY RANEY, SHERIFF  
ADA COUNTY, IDAHO

BY William Yraguen  
DEPUTY WILLIAM YRAGUEN 4105

ADA COUNTY COURTHOUSE-COURT CLERK  
200 W FRONT STREET  
BOISE, ID

ADA COUNTY SHERIFF'S OFFICE  
CIVIL SECTION

**AFFIDAVIT OF SERVICE**

STATE OF IDAHO,  
Plaintiff,  
-VS-

SYDNEY LORELEI NEAL,  
Defendant.

ADA COUNTY - 4TH JUDICIAL DISTRICT  
COURT CASE NO: CRFE20110012350  
SHERIFF'S CASE NO 1112770

SERVE TO: Sydney Lorelei Neal  
ADDRESS: 655 S CANVASBACK WAY MERIDIAN, ID 83642

I, William Yraugen, CERTIFY THAT I PERSONALLY  
(DEPUTY'S PRINTED NAME)

**SERVED A COPY OF THE**

- SUMMONS
- COMPLAINT

TO: Sydney Lorelei Neal  
(NAME OF INDIVIDUAL RECEIVING DOCUMENTS)

AT: 655 S. Canvasback Way Meridian, Id.  
(ADDRESS)

ON: 9-13-11 AT: 1440  
(DATE) (TIME)

W. Yraugen ADA#: 4105  
(SIGNATURE)

ORIGINAL  
000009

**GREG H. BOWER**

Ada County Prosecuting Attorney

ACSO CIVIL '11SEP 2pm 2:18

**Brent A. Ferguson**

Deputy Prosecuting Attorney

200 W. Front Street, Room 3191

Boise, Id. 83702

Telephone (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

SYDNEY LORELEI NEAL,

Defendant.

Case No. CR-FE-2011-0012350

S U M M O N S

**THE STATE OF IDAHO SENDS GREETING TO:**

SYDNEY LORELEI NEAL  
655 S CANVASBACK WAY  
MERIDIAN ID 83642  
208-860-2676

5/28/1986 519-33-5467

**YOU ARE HEREBY NOTIFIED** that a Complaint has been filed against you in  
the District Court of the Fourth Judicial District of the State of Idaho, in and for the County

of Ada, State of Idaho, by the above-named Plaintiff. You are hereby commanded to appear on the 23<sup>rd</sup> day of September 2011, at 9:30 AM at the Ada County Courthouse, 200 West Front Street, Boise, Idaho, to answer to the charges against you in the Complaint of the Ada County Prosecuting Attorney for violating Idaho Code §37-2732(c).

WITNESS my hand and seal of the District Court, Magistrate Division, this 1st day of September 2011.

CHRISTOPHER D. NEAL  
Clerk of the Court

DONNA

By: Deputy Clerk



## ADA COUNTY MAGISTRATE MINUTES

**Sydney Lorelei G Neal** CR-FE-2011-0012350

DOB: [REDACTED]

Scheduled Event: **Arraignment** Friday, September 23, 2011 09:30 AM

Judge: **John Hawley Jr.**

Clerk: DF

Interpreter: \_\_\_\_\_

Prosecuting Agency: AC BC EA GC MC

Pros: K. Slaven

PD / Attorney: \_\_\_\_\_

• **1 I37-2732(C)(1) Controlled Substance-Possession of F**

93742 Case Called Defendant: Present Not Present In Custody

Advised of Rights Waived Rights PD Appointed Waived Attorney

Guilty Plea / PV Admit N/G Plea Advise Subsequent Penalty

Bond \$ ROR Pay / Stay Payment Agreement

In Chambers PT Memo Written Guilty Plea No Contact Order

PH 10/14/11 @ 8:30

Finish ( ) Release Defendant

FILED 10-14-11 AT 9:58 A.M.  
CHRISTOPHER D. RICH,  
CLERK OF THE DISTRICT COURT  
BY H. Manley  
Deputy Clerk

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

Sydney Lorelei Neal

Defendant.

PRELIMINARY HEARING NOTICE / MINUTE SHEET

Case Number FE 2011 - 12340

Case Called Hawley 95700

☒ Ada ☐ Special B. Ferguson

☒ PD Attorney S. Bohner

Defendant: ☒ Present ☐ Not Present ☐ In Custody ☐ PD Appointed ☐ Waived Attorney

☐ Advised of Rights ☐ Waived Rights ☐ In Chambers ☐ Interpreter

☐ Bond \$ ☐ Motion for Bond Reduction Denied / Granted

☐ Amended Complaint Filed ☐ Complaint Amended by Interlineation ☐ Reading of Complaint Waived

☒ State / ~~Defense~~ / ~~Mutual~~ Request for Continuance Need med records

☒ State / Defense ~~Objection~~ / No Objection to Continuance

☒ Case continued to 11-17-11 at 8:30 am/pm for PH

☐ Defendant Waives Preliminary Hearing ☐ Hearing Held ☐ Commitment Signed

☐ Case Bound Over to Judge on at am/pm

☐ Case Dismissed after Preliminary Hearing / On State's Motion ☐ Release Defendant, This Case Only

ADA COUNTY COURTHOUSE, 200 W. FRONT ST., BOISE, ID 83702

You must appear as scheduled above. Failure to do so will result in a warrant being issued for your arrest.

CHRISTOPHER D. RICH, Clerk of the District Court

DATED 10/14/11

By: H. Manley  
Deputy Clerk

I hereby certify that copies of this notice were served as follows:

Defendant ☒ Hand Delivered

Defense Attorney ☐ Hand Delivered

Public Defender ☐ Hand Delivered

Prosecutor ☒ Hand Delivered

Signature [Signature]

Clerk [Signature] Date 10/14/11

000013

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA  
MAGISTRATE DIVISION

SEP 23 2011

CHRISTOPHER D. RICH, Clerk  
By CORRINE PRESLEY  
DEPUTY

STATE OF IDAHO,  
Plaintiff.

vs.

Sydney Lorelei G Neal  
655 S. Canvasback Way  
Meridian, ID 83646

Defendant.

Case No: CR-FE-2011-0012350

**NOTICE OF APPOINTMENT OF PUBLIC DEFENDER  
AND SETTING CASE FOR HEARING**

☒ Ada ☐ Boise ☐ Eagle ☐ Garden City ☐ Meridian

TO: Ada County Public Defender

**YOU ARE HEREBY NOTIFIED** that you are appointed to represent the defendant in this cause, or in the District Court until relieved by court order. The case is continued for:

Preliminary Judge: Friday, October 14, 2011 08:30 AM  
John Hawley Jr.

**BOND AMOUNT:** \_\_\_\_\_ The Defendant is: ☐ In Custody ☐ Released on Bail ☐ ROR

TO: The above named defendant

**IT HAS BEEN ORDERED BY THIS COURT** that the defendant is to contact the Ada County Public Defender's Office at 200 W. Front Street, Room 1107, Boise, Idaho 83702. Telephone: (208) 287-7400. If the defendant is unable to post bond and obtain his/her release from jail, that the proper authorities allow the defendant to make a phone call to the Ada County Public Defender.

**IT HAS BEEN FURTHER ORDERED:** That the parties, prior to the pre-trial conference, complete and comply with Rule 16 I.C.R. and THAT THE DEFENDANT BE **PERSONALLY PRESENT** AT BOTH THE PRE-TRIAL CONFERENCE AND / OR THE JURY TRIAL. FAILURE TO APPEAR AT EITHER THE PRE-TRIAL CONFERENCE OR THE JURY TRIAL WILL RESULT IN A **BENCH WARRANT** FOR THE DEFENDANT'S ARREST.

Dated : 9/23/2011

\_\_\_\_\_  
Deputy Clerk

I hereby certify that copies of this Notice were served as follows on this date Friday, September 23, 2011.

Defendant: Mailed DE 9/23/11 Hand Delivered ☒ Signature \_\_\_\_\_  
Clerk / date Phone ( ) \_\_\_\_\_

Prosecutor: Interdepartmental Mail ☒

Public Defender: Interdepartmental Mail ☒

  
Deputy Clerk



NOTICE OF APPOINTMENT OF PUBLIC DEFENDER

TCFINNDE

000014

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. \_\_\_\_\_

SEP 28 2011

CHRISTOPHER D. RICH, Clerk  
By ELAINE TONG  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff

vs.

SYDNEY LORELEI G NEAL,

Defendant.

Case No. CR-FE-2011-0012350

REQUEST FOR DISCOVERY

TO: THE STATE OF IDAHO, Plaintiff, and to ADA COUNTY PROSECUTOR:

PLEASE TAKE NOTICE, that the undersigned, pursuant to ICR 16, requests discovery and photocopies of the following information, evidence, and materials:

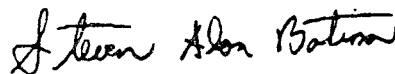
- 1) All **unredacted** material or information within the prosecutor's possession or control, or which thereafter comes into his possession or control, which tends to negate the guilt of the accused or tends to reduce the punishment thereof. ICR 16(a).
- 2) Any **unredacted**, relevant written or recorded statements made by the defendant, or copies thereof, within the possession, custody or control of the state, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence; and also the substance of any relevant, oral statement made by the defendant whether before or after arrest to a peace officer, prosecuting attorney or the prosecuting attorney's agent; and the recorded testimony of the defendant before a grand jury which relates to the offense charged.
- 3) Any **unredacted**, written or recorded statements of a co-defendant; and the substance of any relevant oral statement made by a co-defendant whether before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer or agent of the prosecuting attorney.
- 4) Any prior criminal record of the defendant and co-defendant, if any.
- 5) All **unredacted** documents and tangible objects as defined by ICR 16(b)(4) in the possession or control of the prosecutor, which are material to the defense, intended for use by the prosecutor or obtained from or belonging to the defendant or co-defendant.



- 6) All reports of physical or mental examinations and of scientific tests or experiments within the possession, control, or knowledge of the prosecutor, the existence of which is known or is available to the prosecutor by the exercise of due diligence.
- 7) A written list of the names, addresses, records of prior felony convictions, and written or recorded statements of all persons having knowledge of facts of the case known to the prosecutor and his agents or any official involved in the investigatory process of the case.
- 8) A written summary or report of any testimony that the state intends to introduce pursuant to rules 702, 703, or 705 of the Idaho Rules of Evidence at trial or hearing; including the witness' opinions, the facts and data for those opinions, and the witness' qualifications.
- 9) All reports or memoranda made by police officers or investigators in connection with the investigation or prosecution of the case, including what are commonly referred to as "ticket notes."
- 10) Any writing or object that may be used to refresh the memory of all persons who may be called as witnesses, pursuant to IRE 612.
- 11) Any and all audio and/or video recordings made by law enforcement officials during the course of their investigation.
- 12) Any evidence, documents, or witnesses that the state discovers or could discover with due diligence after complying with this request.

The undersigned further requests written compliance within 14 days of service of the within instrument.

**DATED**, Wednesday, September 28, 2011.



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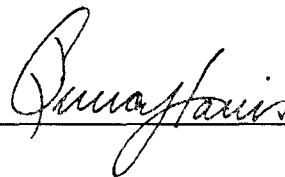
**STEVEN A BOTIMER**  
**Attorney for Defendant**

**CERTIFICATE OF MAILING**

**I HEREBY CERTIFY**, that on Wednesday, September 28, 2011, I mailed a true and correct copy of the within instrument to:

**ADA COUNTY PROSECUTOR**  
**Counsel for the State of Idaho**

by placing said same in the Interdepartmental Mail.



202  
P4  
10/14  
8:30

**ADA COUNTY PUBLIC DEFENDER**  
**Attorneys for Defendant**  
**200 West Front Street, Suite 1107**  
**Boise, Idaho 83702**  
**Telephone: (208) 287-7400**  
**Facsimile: (208) 287-7409**

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. \_\_\_\_\_

**SEP 28 2011**

**CHRISTOPHER D. RICH, Clerk**  
**By ELAINE TONG**  
**DEPUTY**

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

**STATE OF IDAHO,**

**Plaintiff**

**vs.**

**SYDNEY LORELEI G NEAL,**

**Defendant.**

**Case No. CR-FE-2011-0012350**

**MOTION FOR BOND REDUCTION**

**COMES NOW**, SYDNEY LORELEI G NEAL, the above-named defendant, by and through counsel STEVEN A BOTIMER, Ada County Public Defender's office, and moves this Court for its ORDER reducing bond in the above-entitled matter upon the grounds that the bond is so unreasonably high that the defendant, who is an indigent person without funds, cannot post such a bond, and for the reason that the defendant has thereby been effectively denied their right to bail.

**DATED**, Wednesday, September 28, 2011.

*Steven A Botimer*

**STEVEN A BOTIMER**  
**Attorney for Defendant**

**CERTIFICATE OF MAILING**

**I HEREBY CERTIFY**, that on Wednesday, September 28, 2011, I mailed a true and correct copy of the within instrument to:

**BRENT A FERGUSON**  
**Counsel for the State of Idaho**

by placing said same in the Interdepartmental Mail.

*Brent A Ferguson*

**MOTION FOR BOND REDUCTION**

**000017**

MO

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. \_\_\_\_\_

SEP 28 2011

CHRISTOPHER D. RICH, Clerk  
By ELAINE TONG  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,  
Plaintiff

vs.

SYDNEY LORELEI G NEAL,  
Defendant.

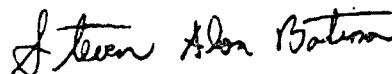
Case No. CR-FE-2011-0012350

NOTICE OF HEARING

TO: THE STATE OF IDAHO, Plaintiff, and to BRENT A FERGUSON:

YOU, AND EACH OF YOU, are hereby notified that the defendant will call for a hearing on MOTION FOR BOND REDUCTION, now on file in the above-entitled matter, on Friday, October 14, 2011, at the hour of 08:30 AM, in the courtroom of the above-entitled court, or as soon thereafter as counsel may be heard.

DATED, Wednesday, September 28, 2011.



STEVEN A BOTIMER  
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on Wednesday, September 28, 2011, I mailed a true and correct copy of the within instrument to:

BRENT A FERGUSON  
Counsel for the State of Idaho

by placing said same in the Interdepartmental Mail.



NOTICE OF HEARING

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MD

11-17

OCT 18 2011

CHRISTOPHER D. RICH, Clerk  
By H. Manley  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

Brent A. Ferguson  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, Idaho 83702  
Phone: 287-7700  
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,	)	<b>Case No. CR-FE-2011-0012350</b>
	)	
Plaintiff,	)	<b>ORDER FOR DELIVERY OF</b>
vs.	)	<b>MEDICAL RECORDS TO THE ADA</b>
	)	<b>COUNTY PROSECUTING</b>
SYDNEY LORELEI NEAL,	)	<b>ATTORNEY'S OFFICE PURSUANT</b>
	)	<b>TO THE HEALTH INSURANCE</b>
Defendant.	)	<b>PORTABILITY AND</b>
	)	<b>ACCOUNTABILITY ACT AND</b>
_____	)	<b>IDAHO CODE §19-3004; ICR 17</b>

This Court, upon information from the Ada County Prosecuting Attorney's Office that certain medical records described herein are necessary for preparation and presentation of the Prosecution's case in the above-captioned matter, and the Court concluding that the medical records do appear to be relevant and necessary to the proper adjudication of this matter, hereby orders that employees or representatives of St. Luke's Hospital produce all personal health information, including but not limited to medical records, laboratory reports, documents,

**ORDER FOR DELIVERY OF MEDICAL RECORDS TO THE ADA COUNTY  
PROSECUTING ATTORNEY'S OFFICE PURSUANT TO THE HEALTH INSURANCE  
PORTABILITY AND ACCOUNTABILITY ACT AND IDAHO CODE §19-3004; ICR 17,**

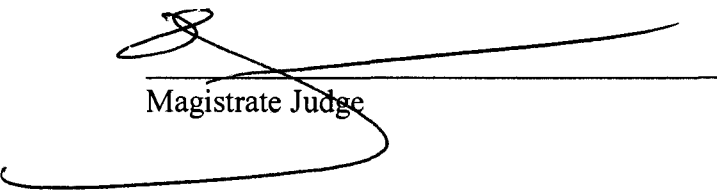
VA

photographs, and billing statements in their custody pertaining to BABY GIRL NEAL aka BENTLEY NEAL DOB: [REDACTED] and mother SYDNEY LORELEI NEAL DOB: [REDACTED] DOI: 4/4/2011 to the Ada County Prosecuting Attorney's Office in response to a subpoena issued by the Prosecution in this case. The records may be generally provided in the manner set out in Idaho Code §9-420, except that the said records are to be made available for pickup by an agent of the Ada County Prosecuting Attorney's Office or law enforcement within three business days of the service of the subpoena, rather than be delivered to the Court.

This Order is also intended to require that personal health information, other than just the described written medical records, such as information known to employees or representatives of St. Luke's Hospital also be provided to the prosecution or criminal defense by interview when asked for and that those employees or representatives of St. Luke's Hospital testify if required.

Any questions regarding said records should be directed to the Ada County Prosecuting Attorney's Office, (208) 287-7700.

IT IS SO ORDERED this 18 day of Oct 2011.

  
Magistrate Judge

**ORDER FOR DELIVERY OF MEDICAL RECORDS TO THE ADA COUNTY PROSECUTING ATTORNEY'S OFFICE PURSUANT TO THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT AND IDAHO CODE §19-3004; ICR 17,**

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>1:38:06 PM</u>		Sydney Neal FE 11-12350
<u>1:38:18 PM</u>	-States Atty	Brent Ferguson
<u>1:38:22 PM</u>	Public Defender	Steve Bottimer
<u>1:38:27 PM</u>	Ferguson- States Atty	Calls SW#1- Det. C McGilvery- Sworn- Direct Examination of the Witness
<u>1:41:28 PM</u>	Witness	Identifies Defendant
<u>1:42:18 PM</u>	Ferguson- States Atty	presents report to witness to refresh memory
<u>1:44:17 PM</u>	Witness	Defendant said only taking hydrocodone or oxycodone-- no methadone
<u>1:45:54 PM</u>	Witness	Placed baby in protective custody
<u>1:46:46 PM</u>	Botimer- Public Defender	Cross Examination of the Witness
<u>1:50:18 PM</u>	Ferguson- States Atty	Presents exhibits 1&2
<u>1:52:00 PM</u>	Botimer- Public Defender	no objection-for limited purposes
<u>1:52:23 PM</u>	Judge	State's Exhibits #1 & 2 Admitted
<u>1:54:17 PM</u>	Judge	Case Bound over- Commitment Signed

FILED 11-17-11 AT 1:55 P.M.  
CHRISTOPHER D. RICH,  
CLERK OF THE DISTRICT COURT  
BY Hmanley DF  
Deputy

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO, )  
 )  
Plaintiff, )  
 )  
vs. )  
Sydney Lorelei Neal )  
 )  
Defendant. )

PRELIMINARY HEARING NOTICE / MINUTE SHEET

Case Number FE 2011-12350  
Case Called Hawley Gardunia 11-17-11  
☒ Ada ☐ Special B. Fergen @ 13806  
☒ PD Attorney S. Botiner

Defendant: ☒ Present ☐ Not Present ☐ In Custody ☐ PD Appointed ☐ Waived Attorney  
☐ Advised of Rights ☐ Waived Rights ☐ In Chambers ☐ Interpreter  
☐ Bond \$ ☐ Motion for Bond Reduction Denied / Granted  
☐ Amended Complaint Filed ☐ Complaint Amended by Interlineation ☐ Reading of Complaint Waived  
☐ State / Defense / Mutual Request for Continuance  
☐ State / Defense Objection / No Objection to Continuance  
☐ Case continued to at am/pm for  
☐ Defendant Waives Preliminary Hearing ☒ Hearing Held ☒ Commitment Signed  
☒ Case Bound Over to Judge Wetherell on 12/1/11 at 9:00 am  
☐ Case Dismissed after Preliminary Hearing / On State's Motion ☐ Release Defendant, This Case Only  
- State signs for Exhibits

ADA COUNTY COURTHOUSE, 200 W. FRONT ST., BOISE, ID 83702

You must appear as scheduled above. Failure to do so will result in a warrant being issued for your arrest.

DATED 11-17-11

CHRISTOPHER D. RICH, Clerk of the District Court

By: Hmanley / DF  
Deputy Clerk

I hereby certify that copies of this notice were served as follows:

Defendant ☒ Hand Delivered  
Defense Attorney ☐ Hand Delivered  
Public Defender ☐ Hand Delivered  
Prosecutor ☒ Hand Delivered

Signature Sydney Neal

Clerk ka / DF Date 11-17-11

NOV 18 2011

CHRISTOPHER D. RICH, Clerk  
By HEIDI MANLEY  
DEPUTY

**GREG H. BOWER**

Ada County Prosecuting Attorney

Brent A. Ferguson

Deputy Prosecuting Attorney

200 W. Front Street, Room 3191

Boise, Idaho 83702

Phone: 287-7700

Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

SYDNEY LORELEI NEAL,

Defendant.

Case No. CR-FE-2011-0012350

COMMITMENT

Defendant's DOB: [REDACTED]

Defendant's SSN: [REDACTED]

**THE ABOVE NAMED DEFENDANT, SYDNEY LORELEI NEAL**, having been brought before this Court for a Preliminary Examination on the 17<sup>th</sup> day of Nov, 2011, on a charge that the Defendant on or about the 4th day of April, 2011, in the County of Ada, State of Idaho, did commit the crime of: POSSESSION OF A CONTROLLED SUBSTANCE, FELONY, I.C. §37-2732(c) as follows:



That the Defendant, SYDNEY LORELEI NEAL, on or about the 4th day of April, 2011, in the County of Ada, State of Idaho, did constructively possess a controlled substance, to-wit: Methadone, a Schedule II controlled substance.

The Defendant having so appeared and having had/having waived preliminary examination, the Court sitting as a Committing Magistrate finds that the offense charged as set forth has been committed in Ada County, Idaho, and that there is sufficient cause to believe that the Defendant is guilty of committing the offense as charged.

**WHEREFORE, IT IS ORDERED** that the Defendant be held to answer to the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada, to the charge herein set forth. Bail is set in the sum of \$ OK'd.

**DATED** this 17th day of Nov, 2011.

  
MAGISTRATE

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NOV 18 2011

CHRISTOPHER D. RICH, Clerk  
By AMY LANG  
DEPUTY

**GREG H. BOWER**

Ada County Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise, Idaho 83702  
Phone: 287-7700  
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,	)	
	)	
Plaintiff,	)	<b>Case No. CR-FE-2011-0012350</b>
	)	
vs.	)	<b>I N F O R M A T I O N</b>
	)	
SYDNEY LORELEI NEAL,	)	<b>Defendant's DOB:</b> [REDACTED]
	)	<b>Defendant's SSN:</b> [REDACTED]
Defendant.	)	
_____	)	

**GREG H. BOWER**, Prosecuting Attorney, in and for the County of Ada, State of Idaho, who in the name and by the authority of the State, prosecutes in its behalf, comes now into District Court of the County of Ada, and states that SYDNEY LORELEI NEAL is accused by this Information of the crime of: POSSESSION OF A CONTROLLED SUBSTANCE, FELONY, I.C. §37-2732(c) which crime was committed as follows:

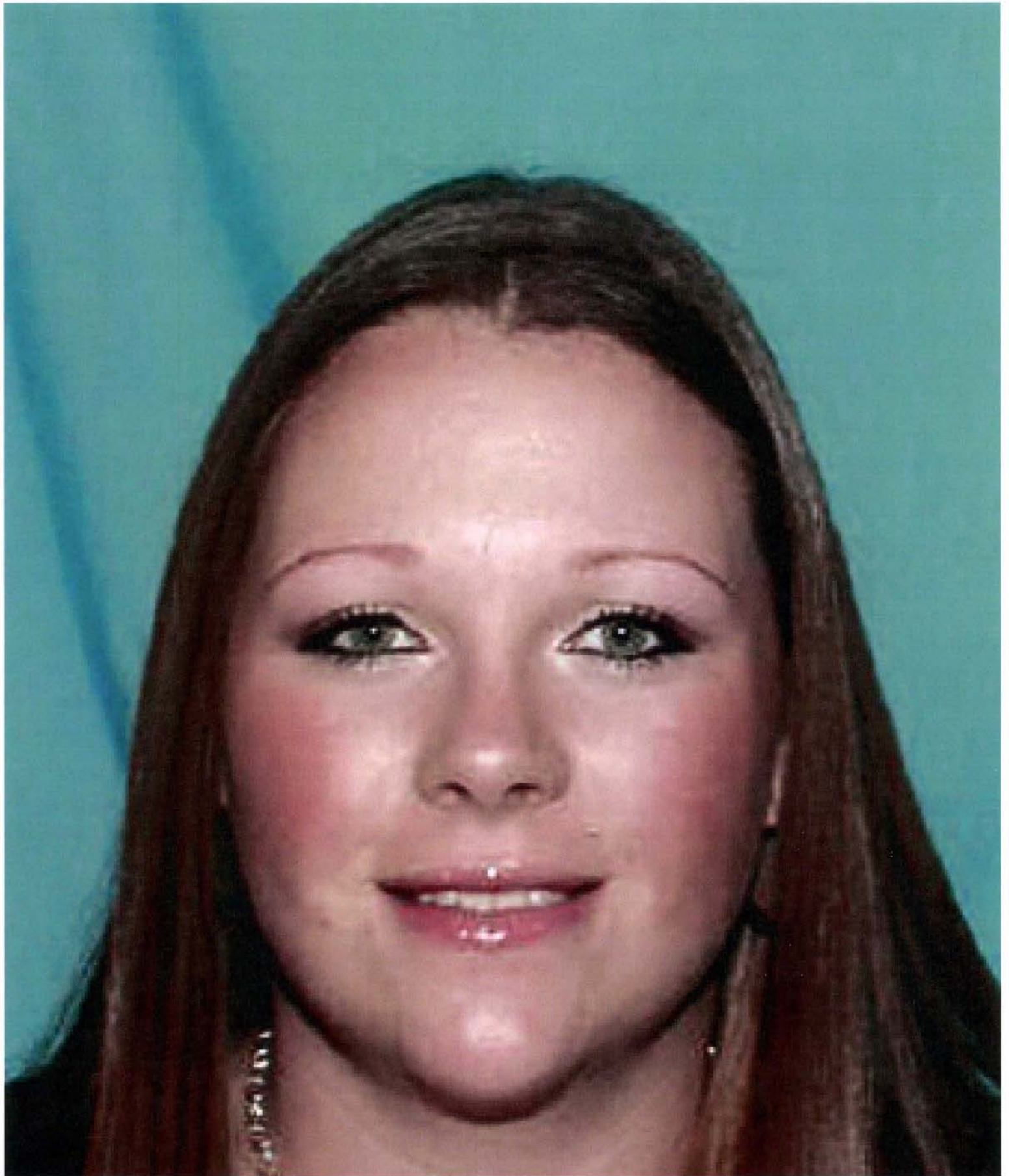
That the Defendant, SYDNEY LORELEI NEAL, on or about the 4th day of April, 2011, in the County of Ada, State of Idaho, did constructively possess a controlled substance, to-wit: Methadone, a Schedule II controlled substance.

All of which is contrary to the form, force and effect of the statute in such case and against the peace and dignity of the State of Idaho.



---

**GREG H. BOWER**  
Ada County Prosecuting Attorney



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**ADA COUNTY PUBLIC DEFENDER**  
**Attorneys for Defendant**

**ANTHONY R. GEDDES, ISB #5265**  
**Deputy Public Defender**  
**200 West Front Street, Suite 1107**  
**Boise, Idaho 83702**  
**Telephone: (208) 287-7400**  
**Facsimile: (208) 287-7409**

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ FILED P.M. 4  
**NOV 22 2011**  
CHRISTOPHER D. RICH, Clerk  
By AMY LANG  
DEPUTY

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF**  
**THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

**STATE OF IDAHO,**

**Plaintiff,**

**vs.**

**SYDNEY LORELEI G. NEAL,**

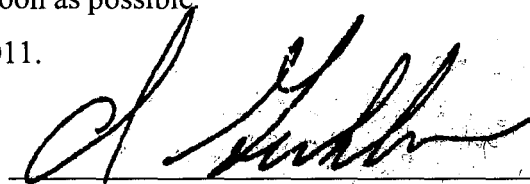
**Defendant.**

**Case No. CR-FE-2011-0012350**

**MOTION FOR PRELIMINARY**  
**HEARING TRANSCRIPT**

**COMES NOW**, Sydney Lorelei G. Neal, the defendant above-named, by and through counsel ANTHONY R. GEDDES, Ada County Public Defender's office, and moves this Court pursuant to ICR 5.1(d) for an ORDER providing typewritten transcripts of the preliminary hearing proceedings, which were held November 17, 2011, as they are essential and necessary for filing pretrial motions. The defendant, being indigent, also requests that the transcripts be prepared at the cost of Ada County, and as soon as possible.

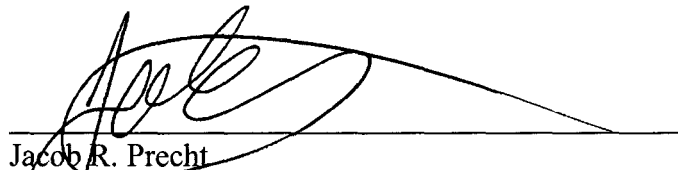
**DATED**, Monday, November 21, 2011.



**ANTHONY R. GEDDES**  
**Attorney for Defendant**

**CERTIFICATE OF MAILING**

**I HEREBY CERTIFY**, that on Monday, November 21, 2011, I mailed a true and correct copy of the within instrument to the Ada County Transcript Coordinator by placing said same in the Interdepartmental Mail.



**Jacob R. Precht**

**MOTION FOR PRELIMINARY HEARING TRANSCRIPT**

**000028**

E

NO. \_\_\_\_\_ FILED 4:10 PM  
AM. \_\_\_\_\_

RECEIVED

NOV 22 2011

NOV 28 2011

Ada County Clerk

CHRISTOPHER D. RICH, Clerk  
By DIANE OATMAN  
Deputy

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant

ANTHONY R. GEDDES, ISB #5265  
Deputy Public Defender  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

SYDNEY LORELEI G. NEAL,

Defendant.

Case No. CR-FE-2011-0012350

ORDER FOR PRELIMINARY  
HEARING TRANSCRIPT

For good cause appearing, this Court hereby grants the defendant's Motion for Preliminary Hearing Transcript. Pursuant to ICR 5.1(d), a typewritten transcript of the preliminary hearing held November 17, 2011, shall be prepared at the expense of Ada County, and as soon as possible.

SO ORDERED AND DATED, this 28<sup>th</sup> day of November 2011..

  
MIKE WETHERELL  
District Judge

Time	Speaker	Note
<u>9:44:17 AM</u>	M Wetherell	Sydney Neal FE1112350 -- arraignment -- def present OR w/Tony Geddes/Jeff White
<u>9:45:59 AM</u>	M Wetherell	Ct arrgs on Information
<u>9:47:33 AM</u>	Public Defender	req two weeks
<u>9:47:36 AM</u>	M Wetherell	Dec 15, 2011 at 9:00 entry of plea
<u>9:47:46 AM</u>		End of Case

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DEC 01 2011

CHRISTOPHER D. RICH, Clerk  
By RAE ANN NIXON  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. CRFE-2011- 0012350
	)	
SYDNEY L. NEAL,	)	NOTICE OF PREPARATION
	)	OF TRANSCRIPT
Defendant,	)	
_____	)	

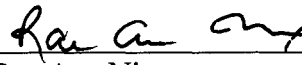
An Order for transcript was filed in the above-entitled matter on November 28, 2011, and a copy of said Order was received by the Transcription Department on November 30, 2011. I certify the estimated cost of preparation of the transcript to be:

Type of Hearing: Preliminary Hearing  
Date of Hearing: November 17, 2011 Judge: John Hawley, Jr.  
20 Pages x \$3.25 = \$65.00

In this case, the Ada County Public Defender's Office has agreed to pay for the cost of the transcript fee upon completion of the transcript.

The Transcription Department will prepare the transcript and file it with the Clerk of the District Court within thirty (30) days (or expedited days) from the date of this notice. The transcriber may make application to the District Judge for an extension of time in which to prepare the transcript.

Date: December 1, 2011

  
\_\_\_\_\_  
Rae Ann Nixon  
Transcript Coordinator


2



CERTIFICATE OF MAILING

I certify that on December 1, 2011, a true and correct copy of the Notice of Preparation of Transcript was forwarded to Defendant's attorney of record, by first class mail, at:

Ada Co. Public Defender  
200 W. Front St. Ste. 1107  
Boise ID 83702  
ANTHONY GEDDES

  
\_\_\_\_\_  
Rae Ann Nixon  
Transcript Coordinator

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>9:48:13 AM</u>		
<u>9:48:13 AM</u>	M Wetherell	Sydney Neal FE1112350 Entry of plea -- ROR -- Tony Geddes/Jeff White
<u>9:48:56 AM</u>	Tony Geddes	Not guilty plea
<u>9:49:08 AM</u>	M Wetherell	April 2, 2012 at 9:00 trial - March 29, 2012 at 1:30 pretrial
<u>9:49:44 AM</u>	Public Defender	motion to dismiss
<u>9:52:08 AM</u>	M Wetherell	March 14, 2011 at 1:30 motion to dismiss
<u>9:52:26 AM</u>		End of Case

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO  
Plaintiff,

vs.

SYDNEY LORELEI G NEAL,  
Defendant.

CASE NO. CR-FE-2011-0012350

NOTICE OF TRIAL SETTING  
AND ORDER GOVERNING  
FURTHER PROCEEDINGS

IT IS HEREBY ORDERED:

The above entitled matter is set for trial before the court and/or jury trial before the court and/or jury as follows:

- **PRETRIAL CONFERENCE.....Thursday, March 29, 2012 @ 01:30 PM**
- **JURY TRIAL.....Monday, April 02, 2012 @ 09:00 AM**

**THE COURT ORDERS THE DEFENDANT SHALL BE PRESENT IN COURT FOR THE PRETRIAL CONFERENCE.**

1. Each party will provide the other party with all materials subject to discovery under I.C.R. Rule 16, at least 28 days before trial.
2. Pretrial motions including motions in limine must be filed and with the court in sufficient time to allow them to be set for a hearing, to be scheduled at least 21 days before trial. The hearing shall be set pursuant to the requirements of local rules for the Fourth Judicial District.
3. Requested jury instructions must be lodged with the clerk at least 5 days prior to trial.
4. If this case is set for jury trial, voir dire of prospective jurors by counsel will be limited to a total of one hour per side unless otherwise ordered by the court.
5. Unless otherwise specified, no trial proceedings will take place on Thursday, due to criminal arraignments.
6. Copies of all electronically taken statements whether preserved by tape, video tape, or

upon DVD, CD, or by other means, shall be provided by the State to the Defense no less than thirty (30) days before trial. If not so provided, the State will be deemed to have waived any right to use such evidence at trial. The Defense shall review such evidence, and if it seeks any redactions, or objects to the use of such evidence shall make a request for the redactions to the State in writing no less than fifteen (15) days before trial or shall file a written objection to the use of such evidence and the basis for such objection including citation to legal authority and case law and call the clerk to set the matter for hearing no later than 12 days before trial. Failure to make such a request will be deemed a waiver of any objection to the State's evidence, except for foundational objections.

If the parties are unable to reach agreement as to redactions, they shall each have at the time of the pretrial conference: (1) a copy of the original full statement; and (2) a copy of their proposed redacted copy. The parties shall be prepared to argue as to the admissibility at the pretrial if a prior motion has not been filed. Failure to provide the required material will be deemed a waiver by the party failing to meet the deadlines established herein – to either use the evidence at trial or object to the use of the evidence at the trial, as the case may be except as to foundational matters.

7. Due to the disruption caused to the court's calendar and the inconvenience and cost incurred by the State and individual jurors when last minute pleas are entered on the day of trial, counsel are advised that the time set for the pretrial conference is the last date on which the Court will accept any plea to lesser offense or dismiss a pending charge pursuant to any plea agreement.  
**Any plea after the pretrial date must be a "straight up" guilty plea to all charged offenses or the matter will proceed to trial unless dismissed by the State.**

Dated this 15th day of December, 2011.

  
MIKE WETHERELL  
District Judge

Notice is hereby given, pursuant to I.C.R. 25(a)(6), that an alternate judge may be assigned to preside over the trial of this case. The following is a list of potential alternate judges:

Hon. G. D. Carey  
Hon. Dennis Goff  
Hon. Daniel C. Hurlbutt, Jr.  
Hon. James Judd  
Hon. Peter McDermott  
Hon. Duff McKee  
Hon. Daniel Meehl  
Hon. George R. Reinhart, III

Justice Gerald Schroeder  
Hon. Kathryn A. Sticklen  
Justice Linda Copple Trout  
Hon. Darla Williamson  
Hon. Barry Wood  
Hon. W. H. Woodland

**All Sitting Fourth District Judges**

Unless a party has previously exercised their right to disqualification without cause under I.C.R. 25(a)(6), each party shall have the right to file one(1) motion for disqualification without cause as to any alternate judge not later than ten(10) days after service of this notice.

Counsel are advised that in the event of an acquittal, the defendant, if in custody, will be released unless other charges are pending or if on bond, the bond will be exonerated. In the event of conviction for any felony or for a misdemeanor involving physical violence, assault, or domestic violence or assault, the defendant will be taken into custody at the conclusion of the trial pending final sentencing.

CERTIFICATE OF MAILING

I hereby certify that on 12/16/2011, I Mailed (served) a true and correct copy of the  
within instrument to:

ADA COUNTY PROSECUTOR  
INTERDEPARTMENTAL MAIL

ADA COUNTY PUBLIC DEFENDER  
INTERDEPARTMENTAL MAIL

CHRISTOPHER D. RICH  
Clerk of the District Court

By:   
Deputy Court Clerk

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DEC 16 2011

CHRISTOPHER D. RICH, Clerk  
By AMY LANG  
DEPUTY

**ADA COUNTY PUBLIC DEFENDER**  
**Attorneys for Defendant**  
**200 West Front Street, Suite 1107**  
**Boise, Idaho 83702**  
**Telephone: (208) 287-7400**  
**Facsimile: (208) 287-7409**

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF**  
**THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

**STATE OF IDAHO,**

**Plaintiff,**

**vs.**

**SYDNEY LORELEI G. NEAL,**

**Defendant.**

**Case No. CR-FE-2011-0012350**

**MOTION TO DISMISS**  
**INFORMATION**

**COMES NOW**, SYDNEY LORELEI G. NEAL, the defendant above-named, by and through counsel ANTHONY R. GEDDES, Ada County Public Defender's Office, and hereby moves this Court pursuant to I.C. § 19-815A for its ORDER dismissing the INFORMATION filed in the above case number upon the grounds and for the reasons that the evidence presented at the preliminary hearing on November 17, 2011, failed to establish that there was reasonable or probable cause to believe that the defendant committed the crime for which she was held to answer within the jurisdiction of this Court.

DATED, this 16 day of December 2011.

  
\_\_\_\_\_  
**ANTHONY R. GEDDES**  
Attorney for Defendant

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY, that on this 16 day of December 2011, I mailed a true and correct copy of the within instrument to:

**JEFFREY S. WHITE**  
**Ada County Prosecutor's Office**

by placing said same in the Interdepartmental Mail.

  
\_\_\_\_\_  
Jacob R. Precht



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JAN 18 2012

CHRISTOPHER D. RICH, Clerk  
By AMY LANG  
DEPUTY

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant

ANTHONY R. GEDDES, ISB #5265  
Deputy Public Defender  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

SYDNEY L. NEAL,

Defendant.

Case No. CR-FE-2011-0012350

DEFENDANT'S BRIEF IN SUPPORT  
OF MOTION TO DISMISS

I. STATEMENT OF THE CASE

A) Nature of the Case

Defendant filed Motion to Dismiss Information on December 16, 2011, pursuant to Idaho Code § 19-815A; in support, Defendant offers the following brief.

B) Procedural History

Ms. Neal was charged by Complaint with Possession of a Controlled Substance, which is a felony violation of Idaho Code § 37-2732(c). On November 17, 2011, following a preliminary

hearing, the case was bound over to district court. A plea of “not guilty” was entered on December 15, 2011, and the case was set for trial.

**C) Statement of Facts**

On March 27, 2011, Sydney Neal gave birth to a girl. According to police reports, the infant was exhibiting “signs of narcotic withdrawal”; as a result, the umbilical cord was sent to a lab for testing. The results indicated the presence of methadone, hydrocodone, and hydromorphone. Ms. Neal had a valid prescription for hydrocodone, but could not explain the presence of methadone or hydromorphone. It was determined that the infant would need a prescription for methadone to treat her addiction.

Out of fear that Ms. Neal would consume her infant’s methadone prescription to feed her own assumed addiction, the infant was placed in protective custody. The aforementioned charge against Ms. Neal was instituted in August 2011.

**II. ISSUE PRESENTED FOR REVIEW**

- A) Does the presence of a controlled substance in a newborn child’s blood present sufficient evidence to support a charge of Possession of a Controlled Substance against the mother?
- B) Did the State fail to provide adequate, competent evidence to establish probable cause on all the elements of the crime of Possession of a Controlled Substance at the preliminary hearing?

### III. ARGUMENT

A) **The Presence of a Controlled Substance in a Newborn Child's Blood Does Not Provide Sufficient Evidence to Support a Charge of Possession of a Controlled Substance Against the Mother.**

A person is in possession of a controlled substance when the person knows of its presence *and* either has physical control of it (actual possession) or the power and intention to control it (constructive possession). *State v. Blake*, 133 Idaho 237 (1999); *State v. Garza*, 112 Idaho 778 (Ct.App. 1987).

Constructive possession requires the state to show a nexus between the accused and the substance so as to give rise to the reasonable inference that the accused was not simply a bystander, but rather had the power and intent to exercise dominion and control over the substance. *State v. Rogers*, 132 Idaho 53 (Ct.App. 1998).

The issue of whether the mere presence of a controlled substance in the blood or urine of a newborn is sufficient evidence to sustain a conviction of the mother for the crime of possession of a controlled substance has not been addressed by Idaho courts. However, the majority rule in other jurisdictions seems to be that the mere presence of a controlled substance in a person's body does not constitute possession within the meaning of criminal statutes.

In the Indiana case of *State v. Vorm*, 570 N.E.2d 109 (Ind.Ct.App. 1991), the Court of Appeals ruled that the presence of a controlled substance in a person's system does not amount to possession of a controlled substance. In *Vorm*, the Court concluded that the mere presence of a controlled substance in blood or urine is circumstantial evidence of prior possession, but insufficient to sustain a conviction without additional corroborating evidence.

In the Minnesota case of *State v. Lewis*, 394 N.W.2d 212 (Minn.Ct.App. 1986), the Court of Appeals adopted a "common sense interpretation" of the word "possession," and determined

that the usual and ordinary meaning of the term “possession” does not include substances injected into the body and assimilated into the system. The *Lewis* Court went on to conclude that once a controlled substance is within a person’s system, the power to exercise dominion and control necessary to establish possession no longer exists. *Lewis*, 394 N.W.2d at 217.

Interestingly, the *Lewis* Court went on to determine that the particular terms of their statute suggested a legislative intent to regulate the physical movement and transfer of controlled substances between different persons. Consequently, once a controlled substance is within a person’s system, it is beyond the scope of the regulation contemplated by the statute. *Lewis*, 394 N.W.2d 217. See MINN. STAT. § 152.09, subd. 1(2) (1984) (repealed by Laws 1989, c. 290, art. 3, § 37, eff. Aug. 1, 1989; see, now, generally, MINN. STAT. §§ 152.021 to 152.029).

Similarly, in *State v. Hornaday*, 105 Wash.2d 120 (Wash.1986), the Supreme Court of Washington ruled that a defendant could not be convicted for possession of alcohol merely because the defendant had alcohol in his system because it is no longer in the power of the person to control, possess, use, or dispose of it. The *Hornaday* Court went on to state that a person possesses a controlled substance when the person knows of the substance’s presence, the substance is immediately accessible, and the defendant exercises dominion and control over it. *Id.*, at 125.

In *State v. Flinchbaugh*, 232 Kan. 831 (Kan.1983), the Supreme Court of Kansas concluded that once a controlled substance is within a person’s system, the power of the person to control, possess, use, dispose of, or cause harm is at an end. The Court further noted that the ability to control the drug is then beyond human capabilities. The essential element of control is absent. *Id.*, at 834. Other states have reached similar conclusions. See *Green v. State*, 260 Ga. 625 (Ga. 1990); *State v. Thronsen*, 809 P.2d 941 (Alaska App. 1991).

Jurisdictions that have been faced with the issue of whether a woman may be charged with possession or distribution of a controlled substance based on residual drug metabolites in her infant have also ruled the evidence to be insufficient.

In the case of *Jackson v. State*, 833 S.W.2d 220 (Tex.App.-Hous. [14 Dist.], 1992), the Court of Appeals of Texas decided that the presence of residual drugs in an infant was insufficient grounds for charging the mother with possession. *Id.*, at 223.

The state of Florida reached the same conclusion, and the Supreme Court of Florida ruled that cocaine metabolites found in an infant's urine after birth was insufficient evidence to convict the mother of distribution of a controlled substance. *Johnson v. State*, 602 So.2d 1288 (Fla. 1992). They went on to conclude that such a scenario was not within the legislative intent. *Id.* at 1290; *see* FLA. STAT. § 893.13(1)(c)(1) (1989) (*see, now, generally*, Fla. Stat. § 893.13(1)(c)(1) (2001) (held unconstitutional by *Shelton v. Secretary, Dept. of Corrections*, --- F.Supp.2d----+, 2011 WL 3236040, \*1+, 23 Fla. L. Weekly Fed. D 11, 11+ (M.D.Fla. July 27, 2011) (No. 60:07-CV-839-ORL-35) (ruling that the aforementioned Florida statute eliminated *mens rea* as an element of drug distribution offenses, which applied a strict liability to Shelton's drug offense, and was therefore facially unconstitutional under the Due Process Clause.)).

In Georgia, the Court of Appeals concluded that their legislation did not intend to prosecute pregnant women who ingest controlled substances. *State v. Luster*, 204 Ga.App. 156, 157-159 (Ga.App. 1992). *See, now, generally*, GA. CODE ANN., § 16-13-30(b).

It is apparent that even in jurisdictions where such convictions were upheld, there was always additional direct evidence in support of the charge.

The Court of Appeals of Georgia upheld a conviction for possession of a controlled substance based on not only drugs in the defendant's system, but also evidence of an accident

scene, police observations, and the defendant's demeanor. *Hall v. State*, 200 Ga.App. 585 (Ga.App. 1991).

The Court of Special Appeals of Maryland upheld a conviction where a positive drug test was also accompanied by obvious physical symptoms and an admission to an attending physician of overdosing on heroin. *Franklin v. State*, 8 Md.App. 134 (Md.App. 1969).

The state of New Mexico upheld a conviction for possession of a controlled substance where, in addition to a positive drug test, the police had surveillance of the defendant in a probable drug deal, the defendant purchased hypodermic needles, syringes were discovered in the restroom where the defendant was arrested, and fresh needle marks were on the defendant's arm. *State v. Yanez*, 89 N.M. 397 (N.M.App. 1976).

In 1977, Oregon ruled that an undercover agent's observations of the injection of a controlled substance into the defendant by a third person was sufficient to show a violation of their "use" statute, but *not* possession of a controlled substance under a separate possession statute. *State v. Downes*, 31 Or.App. 1183 (1977) (superseded by statute, as stated in *Employment Div., Dept. of Human Resources of State of Or. v. Smith*, 485 U.S. 660 (U.S.Or., 1988) (holding that

At the time *Downes* was decided, Oregon law proscribed both the use and possession of controlled substances. In 1977, the Oregon Legislature passed the Uniform Controlled Substances Act, ORE.REV.STAT. § 475.005, *et seq.* (1987), which repealed the use and possession statutes discussed in *Downes* and enacted a provision that addresses only the possession of controlled substances. See [ORE.REV.STAT.] § 475.992(4) [renumbered as 475.840 in 2005 by the Legislative Counsel].

*Smith*, 485 U.S. 673, n.16 ); *State v. Daline*, 175 Or.App. 625 (Or.App. Aug 08, 2001)). While the *Downes* decision is no longer compelling law as it repealed Oregon's use and possession

statutes, there was nevertheless corroborating evidence sufficient to sustain a conviction under Oregon's Uniform Controlled Substances Act.

In addition, the Court of Special Appeals of Maryland upheld a conviction for possession of a controlled substance where the positive drug test was accompanied by evidence of recent needle marks on the defendant's arm and information that the defendant had general access to, and control of, premises where drugs and paraphernalia were found. *Anderson v. State*, 9 Md.App. 639 (Md.App. 1970).

In the case at hand, the only evidence against the defendant is a test of the defendant's newborn's umbilical cord blood, which tested positive for controlled substances. This is clearly relevant evidence. The question becomes is that test alone sufficient to sustain a conviction against the defendant for possession of a controlled substance?

It is not. Following the majority of jurisdictions that have addressed this issue, not only is the prosecution of pregnant women who ingest controlled substances beyond the scope of our statute, it is also illogical to conclude that once a substance enters into the body, a person continues to have dominion and control over that substance.<sup>1</sup>

As other jurisdictions have correctly noted, the positive test is circumstantial evidence that tends to corroborate proof of prior possession, but standing alone, it is insufficient to sustain a conviction for possession of a controlled substance.

This case certainly falls within the rubric of a constructive possession case. As the Idaho Court of Appeals pointed out in 1997, in order to prove constructive possession, the State must be able to prove beyond a reasonable doubt that the defendant had knowledge of the controlled

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<sup>1</sup> "It is unlawful for any person to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this chapter." I.C. § 37-2732(c).

substance, and physical control of the controlled substance must be independently proved. *State v. Rozajewski*, 130 Idaho 644, 647 (Ct.App. 1997). Constructive possession of a controlled substance exists when a nexus between the accused and the substance is sufficiently proven so as to give rise to the reasonable inference that the accused was not simply a bystander, but, rather, had the power and intent to exercise dominion and control over the substance. *Garza*, 112 Idaho at 784.

The State cannot establish this charge standing on Ms. Neal's infant's blood test alone. There are no other facts or circumstances that provide that nexus between Ms. Neal and any alleged substance. Indeed, the State is proceeding in this case backward.

*State v. Yakovac*, 145 Idaho 437 (2008), is illustrative. In *Yakovac*, police officers responded to a report of a physical confrontation. As they arrived at the scene, Shami Yakovac waved them down from her pick-up truck. She had a cut on her forehead and blood on her face. She told officers that someone had accosted her with a spoon. The officers learned that Yakovac had outstanding warrants for her arrest. They took her into custody. One officer transported her to the hospital while another officer searched her truck.

While at the hospital, Yakovac's probation officer requested a urinalysis. This test detected the presence of methamphetamine in her system. Meanwhile, the officer searching Yakovac's truck found a glass pipe with a white residue, which subsequently tested positive for methamphetamine. Yakovac was ultimately convicted at trial of possession of a controlled substance. The Idaho Court of Appeals upheld her conviction and the admission of the urinalysis results against her and the Supreme Court of Idaho granted review.

The Supreme Court had to decide whether the evidence that Yakovac's urine tested positive for methamphetamine was admissible at trial. The Supreme Court stated, "the positive



urinalysis result for methamphetamine was relevant and admissible evidence.” *Yakovac*, 145 Idaho at 446. The State had the burden of proving that Yakovac knowingly possessed methamphetamine. Possession of methamphetamine is a general intent crime. Evidence tending to prove that Yakovac knew the substance in the pipe was methamphetamine is relevant and admissible evidence, and evidence that Yakovac had methamphetamine in her system makes it more probable that she knew the substance in the pipe was methamphetamine. *Id.*, at 451.

In the case at hand, other than what had been ingested and was circulating through Ms. Neal’s infant’s bloodstream, *there is no substance*. Instead of using the positive test to establish that Ms. Neal knew the substance was methadone and hydromorphone, the State is using the test to prove that there was at one time a substance.

The State is attempting to establish a nexus between Ms. Neal and a substance that does not exist. There is no substance. There is no residue. Even if Idaho were to join those jurisdictions that will sustain convictions based on a positive drug test, those jurisdictions require additional evidence in order to prove knowing and voluntary possession. This additional evidence includes a combination of accident scenes, police observations, a defendant’s demeanor, the presence of paraphernalia, the presence of track marks, admissions to use or possession, access to an area where there are drugs and/or paraphernalia, *etc.*

In this case, there is no additional evidence with which the State can prove beyond a reasonable doubt that Ms. Neal knowingly and voluntarily exercised dominion and control over a controlled substance, methadone and/or hydromorphone.

**B) The State has Failed to Provide Adequate, Competent Evidence to Establish that Ms. Neal Possessed a Controlled Substance.**

“If from the evidence the magistrate determines that a public offense has been committed and that there is probable or sufficient cause to believe that the defendant committed such

offense, the magistrate shall forthwith hold the defendant to answer in the district court.” I.C.R. 5.1(b). “The finding of probable cause shall be based upon substantial evidence upon every material element of the offense charged. . . .” *Id.* “A defendant once held to answer to a criminal charge . . . may challenge the sufficiency of evidence educed at the preliminary examination by a motion to dismiss.” I.C. § 19-815A.

“It is unlawful for any person to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this chapter.” Idaho Code § 37-2732(c).

An element of Possession of a Controlled Substance is knowingly possessing a controlled substance and having physical control over the substance, or at least the power and intention to control it. *See* I.C.J.I 421 (2010) (“A person has possession of something if the person knows of its presence *and* has physical control of it, *or* has the power and intention to control it.” (emphasis added)); *see also State v. Seitter*, 127 Idaho 356, 360 (1995) (holding that there is no need to distinguish further between actual and constructive possession and sole and joint possession).


Evidence of Ms. Neal’s infant’s blood test is the only evidence that was presented at the preliminary hearing. Since evidence of controlled substances is insufficient to support a charge of possession of a controlled substance against Ms. Neal, insufficient evidence was presented at the preliminary hearing to establish probable cause that the crime of possession of a controlled substance was committed.

#### **IV. CONCLUSION**

The State has offered no evidence in this case to prove Ms. Neal's conscious possession of methadone and/or hydromorphone other than the mere presence of the substances in her infant's system. There is no evidence offered to show where, how, when, or under what circumstances the methadone and/or hydromorphone were possessed by Ms. Neal.

Based on the arguments articulated above, and absent additional, relevant, and otherwise admissible evidence that Ms. Neal actually possessed a controlled substance, Ms. Neal respectfully requests that this Court find that the infant's positive blood test is insufficient evidence to sustain a conviction for possession of a controlled substance; as such, insufficient evidence was presented at the preliminary hearing to establish probable cause. This case should therefore be dismissed pursuant to I.C. § 19-815A.

DATED, this 18 day of January 2012.

  
\_\_\_\_\_  
**ANTHONY R. GEDDES**  
Attorney for Defendant

#### **CERTIFICATE OF MAILING**

I HEREBY CERTIFY, that on this 18 day of January 2012, I mailed (served) a true and correct copy of the within instrument to:

**JEFFREY S. WHITE**  
Ada County Prosecutor's Office  
Interdepartmental Mail

  
\_\_\_\_\_  
Jacob R. Precht

FEB 14 2012

CHRISTOPHER D. RICH, Clerk  
By MAURA OLSON  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Jeffrey S. White**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, ID 83702  
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO, )

Plaintiff, )

vs. )

SYDNEY LORELEI NEAL, )

Defendant. )

Case No. CR-FE-2011-0012350

**DISCOVERY  
RESPONSE TO COURT**

COMES NOW, Jeffrey S. White, Deputy Prosecuting Attorney, in and for the  
County of Ada, State of Idaho, and informs the Court that the State has complied with the  
Defendant's Request for Discovery.

RESPECTFULLY SUBMITTED this 10 day of February, 2012.

**GREG H. BOWER**  
Ada County Prosecuting Attorney



By Jeffrey S. White  
Deputy Prosecuting Attorney

137  
M-T-W  
3/14  
1:30

FEB 14 2012

CHRISTOPHER D. RICH, Clerk  
By MAURA OLSON  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Jeffrey S. White**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, ID 83702  
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	Case No. CR-FE-2011-0012350
	)	
vs.	)	REQUEST FOR DISCOVERY
	)	
SYDNEY LORELEI NEAL,	)	
	)	
Defendant.	)	
_____	)	

**TO THE ABOVE NAMED DEFENDANT:**

**PLEASE TAKE NOTICE** that the undersigned, pursuant to Rule 16 of the Idaho Criminal Rules, requests Discovery and inspection of the following:

(1) Documents and Tangible Objects:

Request is hereby made by the prosecution to inspect and copy or photograph books, papers, documents, photographs, tangible objects or copies or portions thereof,

which are within the possession, custody or control of the defendant, and which the defendant intends to introduce in evidence at trial.

(2) Reports of Examinations and Tests:

The prosecution hereby requests the defendant to permit the State to inspect and copy or photograph any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this case, or copies thereof, within the possession or control of the defendant, which the defendant intends to introduce in evidence at the trial, or which were prepared by a witness whom the defendant intends to call at the trial when the results or reports relate to testimony of the witness.


(3) Defense Witnesses:

The prosecution requests the defendant to furnish the State with a list of names and addresses of witnesses the defendant intends to call at trial.

(4) Pursuant to Idaho Code Section 19-519, the State hereby requests that the defendant state in writing within ten (10) days any specific place or places at which the defendant claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom he intends to rely to establish such alibi.

**DATED** this 10 day of February, 2012.


**GREG H. BOWER**  
Ada County Prosecuting Attorney

  
By: \_\_\_\_\_  
Jeffrey S. White  
Deputy Prosecuting Attorney

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13 day of February, 2012, a true and correct copy of the foregoing Request for Discovery was served to **Anthony Geddes, Ada County Public Defender's Office**, in the manner noted below:

- ☐ *By depositing copies of the same in the United States mail, postage prepaid, first class.*
- ☒ *By depositing copies of the same in the Interdepartmental Mail.*
- ☐ *By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.*
- ☐ *By faxing copies of the same to said attorney(s) at the facsimile number: \_\_\_\_\_*

  
\_\_\_\_\_  
Legal Assistant

MAR - 5 2012

CHRISTOPHER D. RICH, Clerk  
By ELAINE TONG  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Jeff White**  
Deputy Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise Idaho 83702  
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

SYDNEY LORELEI NEAL,

Defendant,

**Case No. CR-FE-2011-0012350**

**STATE'S REPOSE TO  
DEFENDANT'S MOTION TO  
DISMISS**

**COMES NOW**, Jeff White, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and presents the State's Response to the Defendant's Motion to Dismiss.

**FACTS**

As Defendant's Motion to Dismiss is premised upon a belief that the State failed to present sufficient evidence at the preliminary hearing, the facts in this brief are taken from the transcript of that hearing and the two exhibits admitted into evidence at the preliminary hearing.

On March 27, 2011, Defendant Sydney Neal gave birth to a child at St. Luke's Regional Medical Center in Boise, ID. *Exhibit 2* at 118<sup>1</sup>. At the time of the child's birth, the child showed signs of opiate addiction and opiate withdrawal. *Id.* at 123. Medical records indicated a history of

<sup>1</sup> Both exhibits containing medical records were Bates Stamped by the Ada County Prosecutor's Office. This brief will refer to those Bates Stamp numbers for pinpoint citations to the record for clarity.



opiate use “every six hours” by Defendant during her pregnancy. *Id.* This history of opiate use included hydrocodone and oxycodone, but did not include methadone. *Id.* The child’s cord blood was sent to USDTL for drug testing. *Id.* The tests revealed the presence of methadone and methadone by-products in the baby’s cord blood, indicating recent ingestion of methadone by Defendant. *Id.* The child’s opiate withdrawal was initially treated with morphine, then switched to methadone. *Id.* Medical staff determined that the child would have to continue on methadone for treatment of its opiate addiction for some time after leaving the hospital. *Id.*

Detective Chris McGilvery of the Meridian Police Department responded to St. Luke’s on April 4, 2011. *Transcript* at 3. Det. McGilvery interviewed Defendant regarding the results of the baby’s drug test and Defendant’s history of opiate use and/or abuse. *Id.* at 6-7. Defendant admitted during this interview that she had been using hydrocodone, an opiate painkiller, but denied ever being prescribed methadone or using methadone. *Id.* at 7.

### ARGUMENT

Defendant’s motion to dismiss is based upon a fairly simple set of assumptions:

- That the instant charges are supported by no evidence other than a positive drug test;
- That the weight of authority from other jurisdictions holds that a conviction for possession of a controlled substance cannot be sustained only by a positive drug test; and
- That this Court should adopt this line of reasoning and dismiss the instant case.

The fundamental flaw in Defendant’s argument is that the State did in fact produce evidence other than a positive drug test. While it is undisputed that the positive drug test itself is important evidence, the fact remains that other circumstantial evidence exists to support the charge beyond simply the results of the drug test.

Methadone itself is a Schedule II controlled substance under Idaho law. *See I.C. §37-2707(c)(15)*. Substances classified in Schedule II are illegal to possess without a valid prescription. *I.C. §37-2732(c)*. Therefore, the only way Defendant could have legally possessed and/or ingested methadone was pursuant to a valid prescription. As Defendant admitted she did not have nor had previously received a valid prescription for methadone, this is evidence that her possession of methadone was not lawful.

The child to which she gave birth was addicted to opiates. This addition suggests much more than a passing involvement with opiates, and instead leads to a conclusion (supported by Defendant’s admissions to Det. McGilvery and to St. Luke’s medical staff) that Defendant has a

fairly significant addiction to opiates. Extensive use and/or abuse of opiates strongly suggests that any ingestion of methadone by Defendant was not accidental or unknowing. This, coupled with a positive drug test that shows the presence of a Schedule II controlled substance in bodily fluids connected to Defendant, is sufficient evidence to hold Defendant to answer for the charge of possession of a controlled substance.

The cases Defendant cites to in her brief are unavailing. Those cases truly do involve situations in which an individual (usually a probationer) have submitted to drug testing, tested positive for illegal substances, and are charged with absolutely no other evidence aside from the test itself. The Defendants did not admit to using, they did not show any outward signs of drug use and/or withdrawal, and there was no other evidence suggesting knowing and intentional use. All of the cases Defendant cites to acknowledge that drug test results are admissible circumstantial evidence to support a charge of possession, and that those results paired with other circumstantial evidence can support a charge of possession of a controlled substance. *See generally State v. Yakovac*, 145 Idaho 437 (2008). While Defendant may disagree with the overall weight of this additional circumstantial evidence, those disagreements are for a jury to resolve.

### CONCLUSION

The State presented sufficient evidence at the preliminary hearing to support Defendant being held to answer on a charge of possession of a controlled substance. For the foregoing reasons, the State respectfully requests that the Court DENY the Defendant's Motion to Dismiss.

RESPECTFULLY SUBMITTED this 5 day of March, 2012.

**GREG H. BOWER**  
Ada County Prosecuting Attorney



Jeff White


Deputy Prosecuting Attorney

## CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 5 day of March 2012, I caused to be served, a true and correct copy of the foregoing upon the individual(s) named below in the manner noted:

Name and address: Anthony Geddes, Ada County Public Defender's Office

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☒ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: \_\_\_\_\_

  
\_\_\_\_\_  
Legal Assistant

NO. \_\_\_\_\_  
FILED  
A.M. \_\_\_\_\_ P.M. 3:56

**MAR 13 2012**

CHRISTOPHER D. RICH, Clerk  
By LUCILLE DANSEREAU  
DEPUTY

**GREG H. BOWER**

Ada County Prosecuting Attorney

**Jeff White**

Deputy Prosecuting Attorney

Idaho State Bar No. 7126

200 W. Front Street, Room 3191

Boise, Idaho 83702

Telephone (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

SYDNEY LORELEI NEAL,

Defendant.

**Case No. CR-FE-2011-0012350**

**STIPULATION TO FILE  
DOCUMENTS UNDER SEAL**

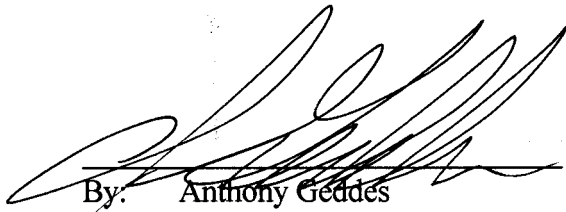
**COMES NOW**, the State of Idaho, by and through Jeff White, and Defendant Sydney Lorelei Neal, by and through Anthony Geddes, and do hereby stipulate to the filing of the following listed documents under seal with this Court for its consideration in the upcoming hearing on Defendant's Motion to Dismiss:

1. Medical records for Sydney Lorelei Neal from St. Luke's Regional Medical Center (preliminary hearing Exhibit 1).
2. Medical records for Baby Neal from St. Luke's Regional Medical Center (preliminary hearing Exhibit 2).

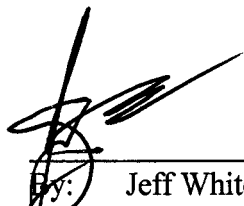
**STIPULATION TO FILE DOCUMENTS UNDER SEAL (NEAL) - 1**

000059

DATED this 13 day of March, 2012.

  
By: Anthony Geddes  
Counsel for the Defendant

**GREG H. BOWER**  
Ada County Prosecuting Attorney

  
By: Jeff White  
Deputy Prosecuting Attorney, for Plaintiff

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13 day of March, 2012, a true and correct copy of the foregoing STIPULATION TO FILE DOCUMENTS UNDER SEAL was served to **Anthony Geddes, Ada County Public Defender, 200 W. Front Street, Ste. 1107, Boise, Idaho 83702**, in the manner noted below:

- \* HAND DELIVERY*
- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
  - ☐ By depositing copies of the same in the Interdepartmental Mail.
  - ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
  - ☐ By faxing copies of the same to said attorney(s) at the facsimile number: \_\_\_\_\_

  
Lisa Aberasturi, Legal Assistant

<u>Time</u>	<u>Speake</u>	<u>Note</u>
<u>1:50:35 PM</u>	M Wethe rell	Syndney Neal FE1112350 - Motion to Dismiss -- ROR w/counsel Tony Geddes - Jeff White
<u>1:51:07 PM</u>	M Wethe rell	Ct revws file
<u>1:51:48 PM</u>	Public Defender	argument re: motion to dismiss -- lack of evid to establish probable cause
<u>1:54:35 PM</u>	M Wethe rell	Ct inquires of counsel w/responses interspersed
<u>1:58:30 PM</u>	Public Defender	cont'd argument
<u>2:14:44 PM</u>	State	response argument
<u>2:35:13 PM</u>	Public Defender	rebuttal argument
<u>2:38:44 PM</u>	M Wethe rell	Ct will issue written opinion
<u>2:38:56 PM</u>	Public Defender	Adv Ct this case will not go to trial -- Ct's decision will result in dismissal or guilty plea
<u>2:40:26 PM</u>	M Wethe rell	Ct will vacate pretrial and jury trial
<u>2:41:17 PM</u>	Public Defender	adv Ct def will waive speedy trial right
<u>2:41:42 PM</u>	M Wethe rell	Ct inquires of def re: waiver -- def adv Ct she will waive speedy trial rights
<u>2:42:02 PM</u>	M Wethe rell	Ct sets matter for revw/decision April 19, 2012 at 9:00

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

APR 10 2012

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADAMS

CHRISTOPHER D. RICH, Clerk  
 By DIANE OATMAN  
 Deputy

STATE OF IDAHO,

Plaintiff,

vs.

SYDNEY LORELEI NEAL,

Defendant.

Case No. CR-FE-2011-0012350

ORDER DENYING  
 DEFENDANT'S MOTION  
 TO DISMISS

Currently before this Court is the defendant's, Sydney Lorelei Neal, Motion to Dismiss. The Probable Cause Hearing was held on November 17, 2011. Both parties submitted their briefs, after which the Court took the matter under advisement. The Court now issues the following decision.

### BACKGROUND

On March 27, 2011, Sydney Lorelei Neal ("Ms. Neal") gave birth to a baby girl ("Neal baby") at St. Luke's Hospital in Boise, Idaho. As part of the standard admittance procedure, the hospital staff inquired into Ms. Neal's health-related history. Ms. Neal stated that she was prescribed oxycodone and hydrocodone and had taken the pills every six hours during her pregnancy to combat pain related to a pilonidal cyst. After birth, the Neal baby began exhibiting signs of withdrawal. In order to treat the withdrawal, the hospital administered morphine and methadone to the inconsolable Neal baby.

The child's umbilical cord preserved from the birth of the Neal baby was sent to the United States Drug Testing Laboratories (USDTL) for testing. The results of the test confirmed the presence of hydrocodone in the cord tissue but also detected the presence of methadone, a Schedule II controlled substance. When approached about the test results, Ms. Neal denied taking methadone and claimed she did not have a prescription for methadone.

At the preliminary hearing, Detective Christopher McGilvery ("Det. McGilvery") of the City of Meridian Police Department testified that he was called out to St. Luke's to assist the Idaho Department of Health and Welfare. Det. McGilvery met with Ms. Neal to discuss her use of controlled substances, particularly her use of painkillers. According to Det. McGilvery, Ms. Neal denied being prescribed, or taking, methadone and stated she only took the painkillers she was lawfully prescribed. In addition, the state introduced into evidence the patient records of Ms. Neal and the Neal baby, exhibits 1 and 2, respectively. These records confirm Det. McGilvery's testimony regarding Ms. Neal's prior lawful drug use and provide additional information regarding the Neal baby's withdrawal and the cord tissue test results.

Ms. Neal was subsequently charged with Possession of a Controlled Substance under Idaho Code § 37-2732(c). Based on the testimony and exhibits provided at the Probable Cause Hearing, The Honorable Judge Gardunia of the Magistrate Court found sufficient probable cause to support the charge. Ms. Neal now moves this Court to dismiss the charge against her based on her belief that insufficient evidence existed to support the finding of probable cause, and under the circumstances set forth here, a charge of Possession of a Controlled Substance cannot be sustained under the Idaho



statute as a matter of law. For the purposes of this motion, the Court finds there are no substantial disputed facts and that only a question of law has been presented.

### **DISCUSSION**

Idaho Criminal Rule (I.C.R.) § 5.1(b) states, “[t]he finding of probable cause shall be based upon substantial evidence upon every material element of the offense charged.” The state has the burden of proving that a crime was committed and probable cause exists to believe that the defended committed the alleged act. *State v. Munhall*, 118 Idaho 602, 606, 798 P.2d 61, 65 (Ct. App. 1990). Probable cause may be based on circumstantial evidence and reasonable inferences, and the “reviewing court may not substitute its judgment for that of the magistrate as to the weight of the evidence.” *State v. Fain*, 116 Idaho 82, 84, 774 P.2d 252, 254 (1989). If the magistrate determines that there is insufficient evidence to support probable cause, the magistrate shall dismiss the complaint. I.C.R. § 5.1(c). However, the state need not establish guilt beyond a reasonable doubt; rather, they need only put forth sufficient evidence to support a finding of probable cause. *State v. Wengren*, 126 Idaho 662, 665, 889 P.2d 96, 99 (Ct. App. 1995). A magistrate’s finding of probable cause will not be disturbed if, after reasonable review of the evidence allowing for inferences, it appears a crime was committed and the defendant committed it. *State v. Pole*, 139 Idaho 370, 372, 79 P.3d 729, 731 (Ct. App. 2003).

Idaho Code (I.C.) § 37-2732(c) states, in relevant part, that it is “unlawful for any person to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription....” Possession of a controlled substance under I.C. § 37-2732(c) is a general intent crime, which requires: (1) a finding that the defendant

possessed a controlled substance, and (2) they knew, or should have known, that it was a controlled substance. *State v. Lamphere*, 130 Idaho 630, 632-633, 945 P.2d 1, 3-4 (1996); *see* I.C.J.I. 403 (2010). Possession may be either actual or constructive. *State v. Garza*, 112 Idaho 778, 784, 735 P.2d 1089, 1095 (Ct. App. 1987). Constructive possession exists when “a nexus between the accused and the substance is sufficiently proven so as to give rise to the reasonable inference that the accused was not simply a bystander but, rather, had the power and intent to exercise dominion and control over the substance.” *State v. Rozajewski*, 130 Idaho 644, 647, 945 P.2d 1390, 1393 (Ct. App. 1997). The defendant’s knowledge of the controlled substance can be inferred from the circumstances. *State v. Batencourt*, 151 Idaho 635, 638, 262 P.3d 278, 281 (Ct. App. 2011).

In *Batencourt*, the appellate court upheld the defendant’s conviction of possession of a controlled substance after determining the evidence introduced at trial was sufficient. *Id.* The relevant evidence introduced included the defendant’s nervous demeanor, a positive blood test, and exclusive control of the vehicle where methamphetamine was found. *Id.* The Court determined that this evidence supported the jury’s finding beyond a reasonable doubt that the defendant possessed the required knowledge. *Id.* at 639, 262 P.3d at 282. Furthermore, the court determined that a nexus existed between the defendant and the methamphetamine found in the vehicle. *Id.* However, the case was ultimately remanded based on an unrelated appeal for prosecutorial misconduct. *Id.* at 641, 262 P.3d at 284.

On the other hand, the Idaho Court of Appeals overturned a conviction based on their conclusion that insufficient evidence was presented to support the jury’s finding that

the defendant was in possession of psilocybin mushrooms with intent to deliver. *State v. Burnside*, 115 Idaho 882, 885, 771 P.2d 546, 549 (Ct. App. 1989). The court did note that the evidence was sufficient to establish the defendant's knowledge because he disclaimed ownership of the drugs and was involved in a prior drug sale. *Id.* at 885-886, 771 P.2d at 549-550. However, notwithstanding evidence that the defendant possessed the drugs earlier, the court determined the defendant was not in possession of the mushrooms given that he stated the mushrooms were not his, and the passenger testified he owned the mushrooms. *Id.* Thus, the defendant did not exercise dominion and control over the mushrooms sufficient to establish possession. *Id.*

More poignantly, the defendant in *State v. Holcomb* appealed the trial court's denial of his motion to dismiss based on the belief that the magistrate lacked probable cause. 128 Idaho 296, 299, 912 P.2d 664, 667 (Ct. App. 1995). On appeal, the defendant argued that the evidence presented at the preliminary hearing was insufficient to support a finding that the defendant was in possession of cocaine. *Id.* The defendant contended the evidence failed to show that he, and not the vehicle's other occupant, was in constructive possession of the drugs. *Id.* To support his contention, defendant pointed to several cases where the evidence was insufficient to support a conviction when multiple parties had equal access to the controlled substance. *Id.* However, the Idaho Court of Appeals was not persuaded by these cases and determined them to be inapplicable because "they address the quantum of evidence necessary to prove guilt beyond a reasonable doubt at trial, a much stricter standard of proof than that applicable to preliminary hearings." *Id.* The defendant did not offer any relevant authority that

indicated when evidence is insufficient to support probable cause and the magistrate's finding was upheld. *Id.* at 299-300, 912 P.2d at 667-668.

In support of her Motion to Dismiss, Ms. Neal cites several out-of-state cases, which hold that evidence of a controlled substance in one's body, standing alone, is not sufficient to sustain a conviction. *See State v. Lewis*, 394 N.W.2d 212 (Minn. Ct. App. 1986) (holding that the presence of a controlled substance in defendant's urine does not constitute possession under Minnesota law). However, the same issue that was present in *Holcomb* is present here. The out-of-state authority cited by Ms. Neal deals with the sufficiency of evidence at the trial stage where the burden of proof is beyond a reasonable doubt. The burden required at the probable cause hearing is a much lower standard that requires probable cause to be based on substantial evidence. This lower standard allows the magistrate to consider circumstantial evidence and make reasonable inferences based on the evidence. Ms. Neal did not cite any authority that supports the contention that a positive blood or urine test, by itself, is insufficient to support probable cause. Therefore, this Court will not disturb the magistrate's finding if it appears from the evidence that there likely was possession of a controlled substance and Ms. Neal was the one in possession.

Based on the evidence submitted at the preliminary hearing, the magistrate judge had sufficient evidence to find probable cause that Ms. Neal possessed the requisite knowledge. In *Batencourt* and *Burnside*, the knowledge element was satisfied beyond a reasonable doubt in situations where, inter alia, the defendant tested positive for a controlled substance and/or had prior involvement with drugs. Here, Ms. Neal's knowledge can be inferred from the surrounding circumstances, namely the presence of

methadone in the cord tissue coupled with her prior history of prescription drug use. It is not necessary that her knowledge be proven beyond a reasonable doubt; only that sufficient evidence of her knowledge exists to support probable cause.

Although Idaho, to the Court's knowledge, has yet to determine whether the presence of a controlled substance in the body constitutes possession, evidence of methadone in the cord tissue provides sufficient probable cause to believe that Ms. Neal possessed methadone. Unlike in *Batencourt* and *Burnside* where a measurable amount of drugs were discovered nearby, no controlled substance was found on or near Ms. Neal. However, Ms. Neal's case is distinguishable because the issue is not whether a sufficient nexus exists between Ms. Neal and the methadone in the cord tissue; but whether actual or constructive possession can exist at all when a controlled substance has been ingested. Nevertheless, the presence of methadone, in conjunction with her admission of not having a prescription, could properly indicate to a reasonable finder of fact that Ms. Neal, at least at some point, possessed methadone without a valid prescription. Whether or not this evidence is sufficient to establish possession beyond a reasonable doubt, or whether she knew or should have known she possessed methadone or if she intentionally ingested the substance or if she ingested the controlled substance at all or if there is another explanation for the test results, are questions for the jury.

Therefore, based on the evidence, the magistrate judge had sufficient evidence to find probable cause to believe that Ms. Neal was in possession of a controlled substance without a valid prescription.<sup>1</sup>

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<sup>1</sup> The Court notes that this finding in no way forecloses the defense, following presentation of all the evidence, from renewing its motion for dismissal or for a judgment of acquittal in this matter.

**CONCLUSION**

For the foregoing reasons, Ms. Neal's Motion to Dismiss is hereby DENIED.

SO ORDERED AND DATED this 10<sup>th</sup> day of April, 2012.

  
\_\_\_\_\_  
MIKE WETHERELL  
District Judge

**CERTIFICATE OF MAILING**

I hereby certify that on this 10th day of April, 2012,  
I mailed(served) a true and correct copy of the within  
instrument to:

ADA COUNTY PROSECUTOR  
INTERDEPARTMENTAL MAIL

ADA COUNTY PUBLIC DEFENDER  
INTERDEPARTMENTAL MAIL

Christopher D. Rich  
Clerk of the District Court

By   
Deputy Court Clerk

**CERTIFICATE OF MAILING**

000070

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>9:33:44 AM</u>		
<u>9:33:44 AM</u>	McKee	Sydney Neal FE1112458 - Revw - bond Tony Geddes/Jeff White
<u>9:34:32 AM</u>	Public Defender	def to plead guilty -- Rule 11 allowing appeal of motion to dismiss only
<u>9:35:12 AM</u>		Def to plead guilty possession of a controlled substance - State rec'd 2+5 suspd def placed on prob, no additional jail -- waive Estrada -- cooperate with PSI
<u>9:36:58 AM</u>	McKee	Ct inquires of counsel re: imposed sentencing or stay pending appeal
<u>9:37:17 AM</u>	Public Defender	sentence to be impose and not stayed pending the appeal
<u>9:40:36 AM</u>	Defendant	sworn & examined by the Ct
<u>9:48:11 AM</u>	State	offer of proof
<u>9:48:56 AM</u>	Public Defender	def denies use of methadone
<u>9:50:03 AM</u>	McKee	def acknowledges State's evid and likelihood of jury finding def guilty
<u>9:50:35 AM</u>	McKee	Cont'd inquiry of def -- acknowledges strength of State's case/wishes to take advantage of plea offer
<u>9:51:17 AM</u>	McKee	accepts guilty plea; orders PSI - 19-2524 substance abuse eval -- June 14, 2012 at 1:30 sentencing
<u>9:53:28 AM</u>		End of Case



FILED  
P.M. 3:28

JUN 14 2012

CHRISTOPHER D. RICH, Clerk  
By DIANE OATMAN  
Deputy

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant

ANTHONY R. GEDDES, ISB #5265  
Deputy Public Defender  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

SYDNEY LORELEI NEAL,

Defendant.

Case No. CR-FE-2011-0012350

STIPULATION TO ENTER  
CONDITIONAL GUILTY PLEA

The parties above-named, by and through undersigned counsel, come now and hereby move this Court pursuant to I.C.R. 11(a)(2) to allow Defendant to enter a conditional plea of guilty in the above-entitled matter, which would reserve in writing the right, on appeal from judgment, to review the Court's adverse ruling on Defendant's Motion to Dismiss. If Defendant prevails on appeal, Defendant shall be allowed to withdraw <sup>her plea</sup> his plea of "guilty."

DATED, this 19 day of April 2012.

JEFFREY S. WHITE  
Ada County Prosecutor's Office

ANTHONY R. GEDDES  
Attorney for Defendant

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>3:16:22 PM</u>		
<u>3:17:36 PM</u>	M Wetherell	Sydney Neal FE1112350 - Sentencing - bond - Tony Geddes/Jeff White
<u>3:22:47 PM</u>	M Wetherell	Ct revws file
<u>3:28:44 PM</u>	State	reqt Ct follow Rule 11 -- 2+5 no obj to withheld judgment
<u>3:29:51 PM</u>	Public Defender	comments/rec'd Ct follow Rule 11 plea agreement
<u>3:32:22 PM</u>	Defendant	addresses the Court
<u>3:37:00 PM</u>	M Wetherell	Ct grants a withheld judgment -- 5yrs prob -- if all fines, fees paid and no violations, may be rel'd after 3yrs --
<u>3:45:50 PM</u>	Defendant	understands terms and cond of probation
<u>3:45:58 PM</u>	M Wetherell	appeal rights
<u>3:46:28 PM</u>		End of Case

Defendant's Name:

Sydney Neal

Case No.

CRFE1112350

5 years probation - expires

6/13/17

☒ No law violations

☒ Supervision /court costs ☐ fine

☐ suspended ☐ restitution \$

☒ PD reimbursement \$ 350.00

☐ days in county jail ☐ susp / Credit ☐ days, within ☐ days, ☐ options

☐ SATP ☐ Brain Building Basics ☐ ABC Program (cognitive self change)

☐ Jail time may be served in ☐ County no cost to this county

☒ Enroll, meaningfully participate, complete any program specified by PO, which shall include mental health, substance abuse, thinking errors, anger management and vocational rehab.

☒ Defendant has completed a rider and shall take part in all progrms recommended

☒ Maintain employment, actively seeking employment, or full time student

☒ Review for vocational rehabilitation and/or obtain GED or HSE

☒ Shall not purchase, carry or possess firearms or other weapons

☒ If defendant requests supervision be transferred, documents shall be admissible

☒ 90 days discretionary jail time, to be served at PO's request without prior approval

☒ 18-2505 Notification re: escape

☒ Do not purchase, possess or consume alcohol

☒ Do not purchase, possess or use controlled substances, unless specifically prescribed

☒ No frequent bars

☒ No associations prohibited by PO

☒ Submit to tests of blood, breath, saliva, and urine at own expense

☒ Submit to polygraph as to compliance with conditions of probation

☒ Defendant enroll in subst abuse treatment, include inpatient/No objection to religious based

☐ The Court has no objection to the ☐ program which the defendant has chosen.

☒ Fourth Amendment waiver

☒ Fifth Amendment waiver

☒ Sixth Amendment waiver

☐ Obtain alcohol/substance abuse evaluation and follow recommendations

☒ Def has completed substance abuse evaluation/treatment and follow recommendations

☐ Do not become intimately involved with anyone under the age of 18 years

☐ Complete sex offender treatment including plethysmograph and polygraph examinations

☐ Do not become intimately involved with anyone who has female child under 18 residing in home

☐ No unsupervised contact with any female under the age of 18

☐ No contact with the victim

☐ No contact order has been issued. No contact means NO CONTACT.

☐ Register with the Sheriff's Office in county of residence and give any address where temporarily or permanently residing

☒ 180 hours of community service, and pay 60 cent fee for each hour of service before June 14, 2013

☐ Attend NA/AA meetings

☒ Obtain psychological/psychiatric treatment and sign waivers

☒ Establish budget with PO, verify income and expenses

☐ No checking account or credit cards while on probation ☐ No new indebtedness

☐ Advise future employers in writing, including the statement that this is a ☐ offense

☐ Def's driving privileges suspended - violation will be considered viol of fundamental condition

☐ Def final opportunity at prob

☒ Time spent on prob not credited

☒ Def has received WHJ - viol will revoke

☒ Def has had ☐ prior DUI offenses

☐ DNA Sample

☐ Register for Selective Service

☒ Defendant will waive extradition if placed outside this state

000074

JUN 18 2012

CHRISTOPHER D. RICH, Clerk  
By LUCILLE DANSEREAU  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. CR-FE-2011-0012350
	)	
SYDNEY LORELEI NEAL,	)	ORDER WITHHOLDING
	)	JUDGMENT AND ORDER OF
DOB: [REDACTED]	)	PROBATION AND COMMITMENT
SSN: [REDACTED]	)	
Defendant.	)	
_____	)	

WHEREAS, on this 14th day of June, 2012; this being the time fixed by the court for pronouncing sentence upon the Defendant, the Court noted the presence of the Prosecuting Attorney, or his deputy, the Defendant, and Anthony Geddes, counsel for the Defendant in court.

The Defendant was duly informed of the Information filed. On April 19, 2012, the Defendant pled guilty to the crime(s) of POSSESSION OF A CONTROLLED SUBSTANCE, FELONY, I.C. § 37-2732(c), committed on or about April 4, 2011.

The Defendant, and the Defendant's counsel, were then asked if they had any legal cause or reason to offer why judgment and sentence should not be pronounced against the Defendant, and if the Defendant, or the Defendant's counsel, wished to make a statement on behalf of the Defendant, or to present any information to the court in mitigation of punishment; and the Court, having accepted such statements, and having found no legal cause or reason why judgment and

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sentence should not be pronounced against the Defendant at this time; does render its judgment of conviction as follows, to-wit:

That, whereas, the Defendant having pled guilty to the crime(s) of POSSESSION OF A CONTROLLED SUBSTANCE, FELONY, I.C. § 37-2732(c);

AND WHEREAS, the said District Court, having ascertained the desirability of granting the petition of probation, does hereby order and decree that the said Defendant, SYDNEY LORELEI NEAL, be placed on probation and sentence is hereby withheld for a period of five (5) years under the following conditions, to-wit:

A. That the probation is granted to and accepted by the Defendant, subject to all its terms and conditions and with the understanding that the Court may at any time, in case of the violation of the terms of the probation, cause the Defendant to be returned to the Court for the imposition of sentence as prescribed by law or any other punishment as the Court may see fit to hand down.

B. That the Defendant shall be under the legal custody and control of the Director of Probation and Parole of the State of Idaho and the District Court with supervised probation and subject to the rules of probation as prescribed by the Board of Correction and the District Court.

C. That during said period of probation the said Defendant shall violate no law or ordinance of the United States or any city, state or county therein, wherein a fine or bond forfeiture of more than \$250.00 or a jail term could have been imposed as a penalty, nor violate any terms of this or any other probation.

D. Special conditions, to wit:

1. Defendant shall pay the sums set out in this judgment for fines, fees, restitution, costs, etc., to the Ada County Clerk's Office in reasonable

monthly installments as arranged with the probation officer.

2. Defendant shall participate in any and all programs of rehabilitation recommended by his/her probation officer, including but not limited to programs of mental health, substance abuse, criminal thinking errors, and vocational rehabilitation as deemed necessary by the probation officer.
3. During the entire term of probation, the Defendant shall maintain steady employment, be actively seeking employment or be enrolled as a student, to the extent he/she is physically and mentally able to do so.
4. Defendant shall not purchase, carry or have in his/her possession any firearm(s) or other weapons. Pocket knives are weapons under this condition.
5. If the Defendant requests that supervision of probation be transferred to any place other than the Fourth Judicial District (either within or outside Idaho), by doing so, the Defendant agrees that any documents purportedly received from the agency supervising the Defendant shall be admissible into evidence at a probation violation hearing without the state having to show that such evidence is credible and reliable, and the Defendant shall waive any right to confront the author of such documents.
6. Defendant shall serve an additional ninety (90) days in the Ada County Jail at the discretion of the probation officer, without prior approval of the Court. The probation officer has the discretion and authority to immediately deliver Defendant to the Sheriff for incarceration in the county jail for the purpose of having Defendant serve this discretionary time and the Sheriff shall commit the Defendant to serve this time on request of the probation officer without further order from the Court. The probation officer shall immediately file with the Court a written statement of the reasons Defendant has been placed in custody, for review by the Court. The probation officer shall have all options available including work release and S.L.D., subject to eligibility determined by the Sheriff.
7. Pursuant to I.C. § 18-2505, the Defendant is advised any failure to return to the custody of the Sheriff when required or intentionally leaving any area to which he/she is restricted while in any program permitted as an alternative to incarceration, or the removal or disabling of any SCRAM bracelet, GPS tracking or similar device, will be considered an "escape" and may result in a sentence of up to five (5) years in prison to be served consecutively to any sentence already being served or imposed, or a \$50,000.00 fine, or both.
8. Defendant shall not purchase, possess or consume any alcoholic beverages

while on probation.

9. Defendant shall not purchase, possess or consume any drug or narcotic unless specifically prescribed by a medical doctor.
10. Defendant shall not frequent establishments where alcohol is the main source of income.
11. Defendant shall not associate with individuals specified by his/her probation officer.
12. Defendant agrees to tests of blood, breath, saliva or urine or other chemical tests for the detection of alcohol and/or drugs at the request of his/her probation officer or any law enforcement officer, to be administered at Defendant's own expense.
13. Upon request of his/her probation officer, Defendant agrees to submit to polygraph examinations administered by qualified examiners and limited in scope to those matters which are calculated to determine whether Defendant is complying with the lawful conditions of his/her probation.
14. Defendant shall enroll in, meaningfully participate and complete any substance abuse treatment program, including inpatient treatment, identified by his/her probation officer, if deemed necessary. The Court has no objection to a religiously based program so long as it is chosen by the Defendant.
15. Defendant agrees to waive his/her Fourth Amendment rights applying to search and seizure as provided by the United States Constitution, and to submit to a search by his/her probation officer or any law enforcement officer of his/her person, residence, vehicle or other property upon request. Defendant shall not reside with any person who does not consent to such a search.
16. Defendant shall waive his/her Fifth Amendment rights to the extent that he/she must answer truthfully all questions of a probation officer reasonably related to compliance or non-compliance with the conditions of probation.
17. Defendant shall waive his/her Sixth Amendment rights of confrontation in so far as the State may use reliable hearsay evidence at any probation violation hearing.
18. Defendant has completed a substance abuse evaluation or a treatment program and will follow the recommendations of that evaluation or the

follow up treatment recommended by his/her treatment program.

19. Defendant shall perform one hundred (100) hours of community service and pay any fee required before June 13, 2013.
20. If deemed necessary by the probation officer, Defendant shall obtain psychological and/or psychiatric treatment with such diagnosis and assessment information being provided to his/her probation officer. The Defendant shall execute any documents or waivers necessary to comply with this condition.
21. Defendant shall establish a budget with his/her probation officer and verify income and expenses.
22. Defendant is advised that time spent on probation is not credited against any underlying incarceration (jail time or prison) imposed.
23. Defendant has received a withheld judgment. If the Defendant successfully serves his/her sentence, then this charge will be dismissed. The record will still show the charge was filed because the State of Idaho does not allow total expungement of the charge. Any violation of probation will result in revocation of the withheld judgment and may result in imposition of the maximum allowable jail or prison time, or fines or both for the original charge. (Up to seven (7) years in prison or a \$15,000.00 fine or both.)

E. That the Defendant, if placed on probation to a destination outside the State of Idaho, or leaves the confines of the State of Idaho with or without permission of the Director of Probation and Parole does hereby waive extradition to the State of Idaho and also agrees that the said Defendant will not contest any effort by any state to return the Defendant to the State of Idaho.

IT IS FURTHER ORDERED that pursuant to I.C. § 31-3201A the Defendant shall pay court costs in the amount of \$17.50; County Administrative Surcharge Fee in the amount of \$10.00 pursuant to I.C. § 31-4502; P.O.S.T. Academy fees in the amount of \$10.00 pursuant to I.C. § 31-3201B; ISTARS technology fee in the amount of \$10.00 pursuant to I.C. § 31-3201(5); \$75.00 to the Victims Compensation Fund pursuant to I.C. § 72-1025; \$3.00 for the Peace Officer Temporary



Disability Fund pursuant to I.C. § 72-1105; \$350.00 for reimbursement of public defender fees pursuant to I.C. § 19-854(c); \$30.00 domestic violence fee; \$10.00 for the drug hotline fee pursuant to I.C. § 37-2735A; and \$100.00 emergency surcharge fee pursuant to I.C. § 31-3201H; and community service fee (\$.60 per hour) as required by I.C. § 31-3201C, to be paid through the Clerk of the District Court. Defendant is to pay supervision of probation and parole costs in an amount not to exceed the maximum allowable by I.C. § 20-225. Further, the Defendant shall pay an amount to be determined by the Department of Correction, not to exceed \$100.00, for the cost of conducting the presentence investigation and preparing the presentence investigation report. The amount will be determined by the Department and paid by the Defendant in accordance with the provisions of I.C. § 19-2516.

IT IS FURTHER ORDERED That the Clerk deliver a certified copy of this Order Withholding Judgment and Commitment to the said Sheriff, which shall serve as the commitment of the Defendant.

Pursuant to I.C. § 18-309, Defendant shall receive credit for zero (0) days served in prejudgment incarceration.

The probation agreement is to be hereto attached and by reference made a part hereof.

This probation shall expire at midnight on June 13, 2017, unless otherwise ordered by the Court. If all fines and fees are paid and there are no violations of probation or new crimes, the Defendant may be released from probation after three (3) years on June 13, 2015.

Done in open court this 14th day of June, 2012.

  
MIKE WETHERELL  
District Judge

This is to certify that I have read or had read to me and fully understand and accept all the conditions, regulations and restrictions under which I am being granted probation. I will abide by and conform to them strictly and fully understand that my failure to do so may result in the revocation of my probation.

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Date of Acceptance

\_\_\_\_\_  
Probation Officer

CERTIFICATE OF MAILING

I hereby certify that on the 18<sup>th</sup> day of June, 2012, I mailed (served) a true and correct copy of the within instrument to:

ADA COUNTY PROSECUTOR  
VIA E-MAIL

ADA COUNTY PUBLIC DEFENDER  
VIA E-MAIL

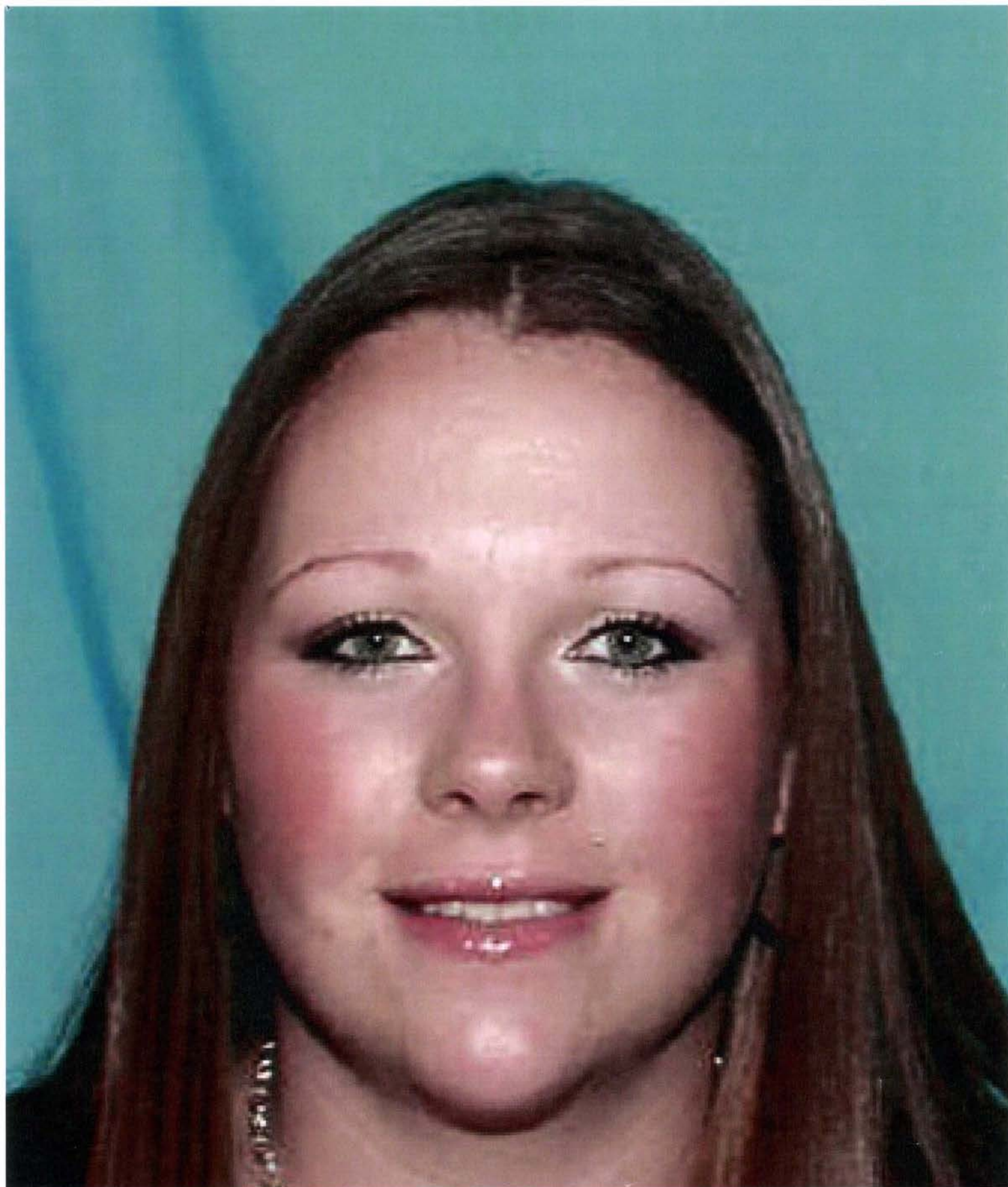
ADA COUNTY JAIL  
VIA E-MAIL

CCD SENTENCING TEAM – DEPT OF CORRECTIONS  
VIA E-MAIL

PROBATION & PAROLE  
VIA E-MAIL

CHRISTOPHER D. RICH  
Clerk of the District Court

By:   
Deputy Court Clerk



000083

137.  
ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 W. Front, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ FILED \_\_\_\_\_  
P.M. \_\_\_\_\_

JUN 19 2012

CHRISTOPHER D. RICH, Clerk  
By JACKIE BROWN  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO	)	
	)	
Plaintiff-Respondent,	)	
	)	
vs.	)	Criminal No. CR-FE-2011-0012350
	)	
	)	NOTICE OF APPEAL
SYDNEY L. G. NEAL,	)	
	)	
Defendant-Appellant.	)	
_____	)	

TO: THE ABOVE NAMED RESPONDENT, GREG BOWER, ADA COUNTY  
PROSECUTOR, AND THE CLERK OF THE ABOVE ENTITLED COURT.

NOTICE IS HEREBY GIVEN THAT:

1. The above-named appellant appeals against the above-named respondent to the Idaho Supreme Court from the final Decision and Order entered in the above-entitled action on the 18th day of June, 2012, the Honorable Mike Wetherell, District Judge presiding.

2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Idaho Appellate Rule (I.A.R.) 11(c)(1-10).

3. A preliminary statement of the issues on appeal, which the appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal, is/are:

NOTICE OF APPEAL, Page 1

JB  
000084

- (a) Did the district court err in failing to grant the appellant's **MOTION TO DISMISS**, pursuant to I.C. § 19-815A?

4. There is a portion of the record that is sealed. That portion of the record that is sealed is the Pre-Sentence Investigation Report (PSI).

5. **Reporter's Transcript.** The appellant requests the preparation of the **entire reporter's standard transcript** as defined in I.A.R. 25(c). The appellant also requests the preparation of the additional portions of the reporter's transcript:

- (a) Sentencing Hearing held: June 14, 2012  
Court Reporter: F. Morris  
Estimated pages: 25
- (b) Entry of Plea: April 19, 2012  
Court Reporter: N. Julson  
Estimated pages: 25
- (c) Motion Hearing: March 14, 2012  
Court Reporter: N. Julson  
Estimated pages: 25

6. **Clerk's Record.** The appellant requests the standard clerk's record pursuant to I.A.R. 28(b)(2). The appellant requests the following documents to be included in the clerk's record, in addition to those automatically included under I.A.R. 28(b)(2):

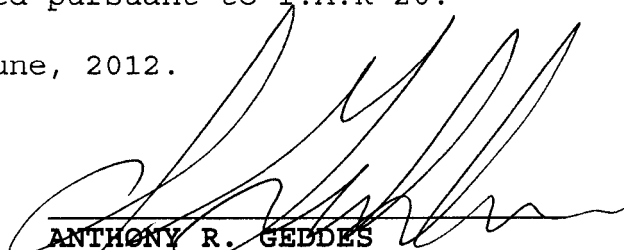
- (a) All items, including any affidavits, objections, responses, briefs or memorandums, offered in support of or in opposition to the **MOITON TO DISMISS**, filed or lodged, by the state, appellant or the court;
- (b) Any exhibits, including but not limited to letters or victim impact statements, addendums to the PSI or other items offered at sentencing hearing.

7. I certify:

- (a) That a copy of this Notice of Appeal has been served on the Court Reporter, F. Morris and N. Julson;

- (b) That the appellant is exempt from paying the estimated fee for the preparation of the record because the appellant is indigent. (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 24(e));
- (c) That there is no appellate filing fee since this is an appeal in a criminal case (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 23(a)(8));
- (d) That Ada County will be responsible for paying for the reporter's transcript, as the client is indigent, I.C. §§ 31-3220, 31-3220A, I.A.R. 24(e); and
- (e) That service has been made upon all parties required to be served pursuant to I.A.R. 20.

**DATED** this 19th day of June, 2012.



**ANTHONY R. GEDDES**  
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, That on the 19th day of June, 2012, I  
mailed true and correct copies of the foregoing, NOTICE OF APPEAL  
to:

KENNETH K. JORGENSEN  
DEPUTY ATTORNEY GENERAL  
CRIMINAL DIVISION  
P.O. BOX 83720  
BOISE, ID 83720-0010

F. MORRIS & N. JULSON, HONORABLE JUDGE WETHERELL'S COURT  
REPORTER

  
Stephanie Martinez



ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 W. Front St., Ste. 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400

RECEIVED

JUN 19 2012

Ada County Clerk

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 3:38

JUN 20 2012

Clerk  
D. RICH, Clerk  
DEPUTY  
OATMAN


IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO	)	
	)	
Plaintiff-Respondent,	)	Criminal No. CR-FE-2011-0012350
	)	
vs.	)	
	)	
SYDNEY L. G. NEAL,	)	ORDER APPOINTING STATE
	)	APPELLATE PUBLIC DEFENDER
Defendant-Appellant.	)	ON DIRECT APPEAL
	)	

The above-named Defendant, SYDNEY L. G. NEAL, being indigent and having heretofore been represented by the Ada County Public Defender's Office in the District Court, and said Defendant having elected to pursue a direct appeal in the above- entitled matter;

IT IS HEREBY ORDERED, AND THIS DOES ORDER, That the Idaho State Appellate Public Defender is appointed to represent the above named Defendant, SYDNEY L. G. NEAL, in all matters pertaining to the direct appeal.

DATED This 20<sup>th</sup> day of June, 2012.

  
MIKE WETHERELL  
District Judge

ORDER APPOINTING STATE APPELLATE  
PUBLIC DEFENDER ON DIRECT APPEAL

000088

TO: CLERK OF THE COURT  
 IDAHO SUPREME COURT  
 451 WEST STATE STREET  
 BOISE, IDAHO 83702

NO. \_\_\_\_\_  
 A.M. 8:00 FILED P.M. \_\_\_\_\_

JUL 30 2012

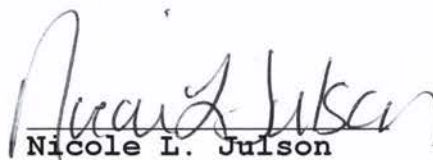
CHRISTOPHER D. RICH, Clerk  
 By BRADLEY J. THIES  
 DEPUTY

STATE OF IDAHO,  
 Plaintiff-Respondent,  
 v.  
 SYDNEY L. G. NEAL,  
 Defendant-Appellant.

)  
 ) Supreme Court  
 ) No. 40076  
 )  
 )  
 ) Case No. 2011-0012350  
 )  
 )  
 )  
 )

**NOTICE OF TRANSCRIPT FILED**

Notice is hereby given that on July 30, 2012, I  
 filed a transcript of 60 pages in length for the  
 above-referenced appeal with the District Court  
 Clerk of the County of Ada in the Fourth Judicial  
 District.

  
 Nicole L. Julson

7-30-12  
 Date

HEARINGS: 3/14/12 and 4/19/12.  
 PDF SENT 7/29/12.

Fax: 334-2616

JUL 30 2012

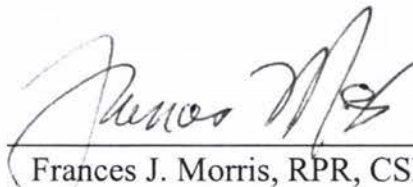
CHRISTOPHER D. RICH, Clerk  
By BRADLEY J. THIES  
DEPUTY

In the Supreme Court of the State of Idaho

State of Idaho	)	Docket No. 40076-2012
Plaintiff-Respondent	)	
v	)	
Sydney LG Neal,	)	
Defendant-Appellant	)	

Notice of Transcript Lodged

Notice is hereby given that on July 24, 2012,  
I lodged one (1) original and three (3) copies of transcripts 24 pages in length,  
as listed below, for the above referenced appeal with  
the District Court Clerk of Ada County, Fourth Judicial District.

  
\_\_\_\_\_  
Frances J. Morris, RPR, CSR No. 696

**TRANSCRIPTS LODGED**

**6/14/12 Sentencing**

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

SYDNEY LORELEI NEAL,

Defendant-Appellant.

Supreme Court Case No. 40076-2012

CERTIFICATE OF EXHIBITS

I, CHRISTOPHER D. RICH, Clerk of the District Court of the Fourth Judicial District of the State of Idaho in and for the County of Ada, do hereby certify:

That the following documents will be submitted as CONFIDENTIAL EXHIBITS to the Record:

1. Pre-Sentence Investigation Report.

I FURTHER CERTIFY, that the following documents will be submitted as EXHIBITS to the Record:

1. Transcript of Preliminary Hearing Held November 17, 2011, Boise, Idaho, filed January 3, 2012.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 31st day of July, 2012.

CHRISTOPHER D. RICH  
Clerk of the District Court

By K. Wesener  
Deputy Clerk



CERTIFICATE OF EXHIBITS

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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

SYDNEY LORELEI NEAL,

Defendant-Appellant.

Supreme Court Case No. 40076-2012

CERTIFICATE OF SERVICE

I, CHRISTOPHER D. RICH, the undersigned authority, do hereby certify that I have personally served or mailed, by either United States Mail or Interdepartmental Mail, one copy of the following:

CLERK'S RECORD AND REPORTERS' TRANSCRIPTS

to each of the Attorneys of Record in this cause as follows:

STATE APPELLATE PUBLIC DEFENDER

ATTORNEY FOR APPELLANT

BOISE, IDAHO

LAWRENCE G. WASDEN

ATTORNEY FOR RESPONDENT

BOISE, IDAHO

CHRISTOPHER D. RICH  
Clerk of the District Court

By K. W. Wesener  
Deputy Clerk

Date of Service: July 31, 2012

CERTIFICATE OF SERVICE

000092





IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

SYDNEY LORELEI NEAL,

Defendant-Appellant.

Supreme Court Case No. 40076-2012

CERTIFICATE TO RECORD

I, CHRISTOPHER D. RICH, Clerk of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada, do hereby certify that the above and foregoing record in the above-entitled cause was compiled under my direction as, and is a true and correct record of the pleadings and documents that are automatically required under Rule 28 of the Idaho Appellate Rules, as well as those requested by Counsel.

I FURTHER CERTIFY, that the Notice of Appeal was filed in the District Court on the 19th day of June, 2012.

CHRISTOPHER D. RICH  
Clerk of the District Court

By K. W. Seeger  
Deputy Clerk



CERTIFICATE TO RECORD

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